Maryland Register

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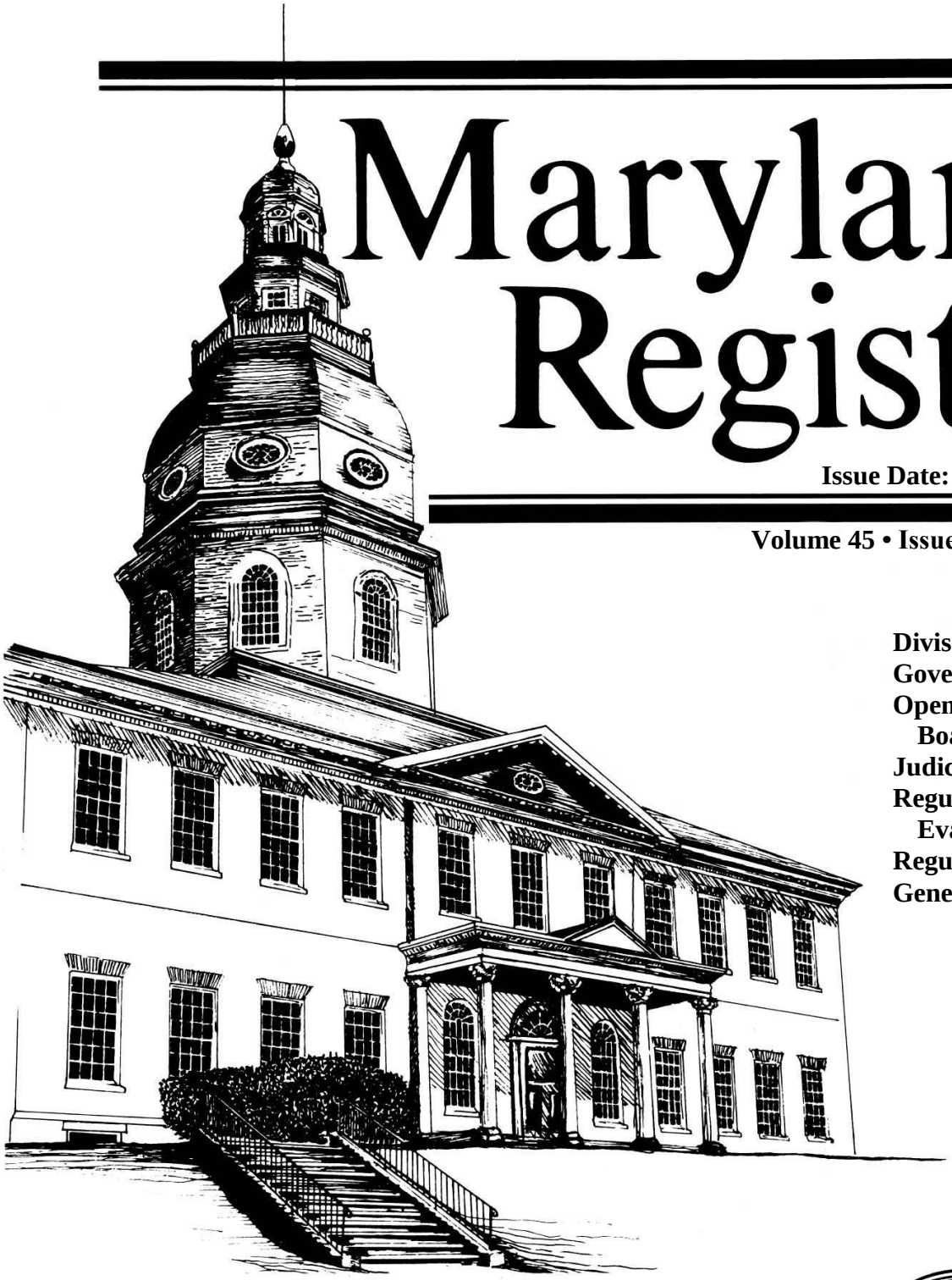

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before December 18, 2017, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of December 18, 2017.

Gail S. Klakring
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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Lawrence J. Hogan, Jr., Governor; **John C. Wobensmith**, Secretary of State; **Gail S. Klakring**, Administrator; **Mary D. MacDonald**, Senior Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online, and Subscription Manager; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

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Illustrations by Carolyn Anderson, Dept. of General Services

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COMAR Online

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

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

For additional information, visit www.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 JULY 20, 2018

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
January 19**	December 29	January 10	January 8
February 2**	January 12	January 24	January 22
February 16	January 29	February 7	February 5
March 2**	February 12	February 21	February 16
March 16	February 26	March 7	March 5
March 30	March 12	March 21	March 19
April 13	March 26	April 4	April 2
April 27	April 9	April 18	April 16
May 11	April 23	May 2	April 30
May 25	May 7	May 16	May 14
June 8**	May 21	May 30	May 25
June 22	June 4	June 13	June 11
July 6	June 18	June 27	June 25
July 20	July 2	July 11	July 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 | Subtitle | Chapter | Regulation | Section | Subsection | Paragraph | Subparagraph

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

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

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

Table of Pending Proposals

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

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27 CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS

27.01.01.01 • 44:26 Md. R. 1251 (12-22-17)
27.01.11.04 • 44:26 Md. R. 1251 (12-22-17)
27.01.13.01—.07 • 44:26 Md. R. 1251 (12-22-17)
27.02.01.01 • 44:26 Md. R. 1251 (12-22-17)
27.03.01.02 • 44:26 Md. R. 1251 (12-22-17)

29 DEPARTMENT OF STATE POLICE

29.06.05.02,.04 • 44:26 Md. R. 1254 (12-22-17)

30 MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

30.01.02.01 • 44:22 Md. R. 1059 (10-27-17) (ibr)
30.02.02.07,.09 • 45:1 Md. R. 51 (1-5-18)
30.04.01.01 • 45:1 Md. R. 51 (1-5-18)
30.04.05.06 • 45:1 Md. R. 51 (1-5-18)

31 MARYLAND INSURANCE ADMINISTRATION

31.03.05.09,.15 • 44:20 Md. R. 967 (9-29-17)

33 STATE BOARD OF ELECTIONS

33.12.02.07 • 44:23 Md. R. 1127 (11-13-17)
33.13.02.02 • 44:23 Md. R. 1127 (11-13-17)
33.13.08.02,.08 • 44:23 Md. R. 1127 (11-13-17)
33.13.09.02,.06—.08 • 44:23 Md. R. 1127 (11-13-17)
33.13.14.04—.06 • 44:23 Md. R. 1127 (11-13-17)
33.13.15.08—.12 • 44:23 Md. R. 1127 (11-13-17)
33.13.16.03 • 44:23 Md. R. 1127 (11-13-17)
33.14.02.10 • 44:23 Md. R. 1127 (11-13-17)
33.20.08.01,.02 • 44:23 Md. R. 1127 (11-13-17)

34 DEPARTMENT OF PLANNING

34.04.07.02,.05 • 44:25 Md. R. 1195 (12-8-17)

36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

36.03.07.02—.06,.08 • 44:26 Md. R. 1254 (12-22-17)

The Division of State Documents

DEPOSITORIES FOR DOCUMENTS INCORPORATED BY REFERENCE

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

Annapolis
MD Department of Legislative Services
90 State Circle (21401)
Contact: Cynthia Stiverson
410-946-5400, 301-970-5400, 800-492-7111 x5400 (MD only)
FAX 410-946-5405

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

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

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

Law Library
University of Baltimore
1401 North Charles St. (21201)
Contact: Patricia Behles
410-837-4559
FAX 410-837-4570

Thurgood Marshall Law Library
University of Md. Francis King Carey School of Law
501 W. Fayette Street (21201)
410-706-2736
FAX 410-706-2372

Charlotte Hall
Southern MD Regional Library
37600 New Market Rd. (20622)
P.O. Box 459 (20622)
Contact: Susan Grant
301-934-9442
FAX 301-884-0438

College Park
Hornbake Library
University of MD
Marylandia and Rare Books Department (20742)
Contact: Amber Kohl
301-405-9210
FAX 301-314-2709

Frostburg
Frostburg State University
Lewis J. Ort Library
1 Susan Eisel Drive (21532)
Contact: Lisa Hartman
301-687-4734
FAX 301-687-7069

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

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

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

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

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

Washington, D.C.
Library of Congress
Anglo-American Acquisitions Division
Government Documents Section101 Independence Ave., S.E. (20540)
Contact: Richard Yarnall
202-707-9470
FAX 202-707-0380

The Governor

EXECUTIVE ORDER 01.01.2017.31

Recognition of the Maryland Indian Status of the Accohannock Tribe

WHEREAS, American Indians, including the Accohannock Tribe, inhabited what is now Maryland for thousands of years before the founding of our State;

WHEREAS, Approximately 58,000 people with American Indian heritage are currently living in the State of Maryland;

WHEREAS, The American Indian community in Maryland is vast, stretching from the Appalachian Mountains to the shores of the Chesapeake Bay and the Atlantic Ocean;

WHEREAS, American Indians have, through their rich cultural heritage, historical influence, and participation in public life, helped to make the State of Maryland the great State that it is today and have contributed to the prosperity and freedom of our country;

WHEREAS, Recognizing these important contributions by American Indians to our State's history and culture, the General Assembly enacted a law establishing a process under which an American Indian tribe, band, group, or clan could be formally recognized by the State;

WHEREAS, Pursuant to that law, the Maryland Commission on Indian Affairs (the "Commission"), relying in part on the advice of a Recognition Advisory Committee and a Reconsideration Panel, which considered documentation of research conducted by anthropologists, other social scientists, historians, genealogists, or other scholars, reviewed the Accohannock Tribe's petition for recognition and recommended that the Governor recognize its Maryland Indian status; and

WHEREAS, I have considered the Commission's determinations and concur with the Commission's recommendation.

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE
STATE OF MARYLAND, BY VIRTUE OF THE POWER VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, INCLUDING SECTION 9.5-309(c) OF THE STATE GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE 30 DAYS AFTER PRESENTATION TO THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW COMMITTEE OF THE GENERAL ASSEMBLY, UNLESS EARLIER WITHDRAWN:

A. The State formally recognizes the Accohannock Tribe's Maryland Indian status.

B. The Accohannock Tribe and its members shall be accorded all the rights and privileges to which formal State recognition of the Accohannock Tribe's Maryland Indian status entitles them.

C. This Executive Order should not be interpreted as creating any rights to land, entitlements of any kind, or any special privileges related to gaming.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 19th Day of December 2017.

LAWRENCE J. HOGAN, JR.
Governor

ATTEST:

JOHN C. WOBENSMITH
Secretary of State

[18-01-27]

Open Meetings Compliance Board

SUMMARY OF OPINIONS ISSUED FROM OCTOBER 1 — DECEMBER 31, 2017*

11 *Official Opinions of the Compliance Board* 59 (2017)
Board of Education of Queen Anne's County
October 31, 2017
Topics Discussed: Administrative Function Exclusion; Investment of Public Funds Exception; Collective Bargaining Exception; Closed Session Topics, Written Statement, and Summary; and Acknowledgment of Violation
Opinion: The public body violated §§ 3-211, 3-305, and 3-301. However, it streams its meetings live, posts its minutes promptly, and, for the most part, discloses in detail the topics that it discusses in closed session.
Violations: §§ 3-211, 3-305, and 3-301

11 *Official Opinions of the Compliance Board* 65 (2017)
Council of the Town of Rock Hall
November 1, 2017
Topics Discussed: Administrative Function Exclusion; Quasi-Legislative Function
Opinion: The Compliance Board elaborated on its opinion in 11 *OMCB Opinions* 38 (2017) to direct the public body's attention to the limits of the "administrative function" exclusion, and, with the benefit of information made public since it issued that opinion, to give its advice in more detail.
Violations: Not Applicable

11 *Official Opinions of the Compliance Board* 68 (2017)
Baltimore City Criminal Justice Coordinating Council (BCCJCC)
November 14, 2017
Topics Discussed: Public Body Definition
Opinion: The entity is not a public body under the Open Meetings Act.
Violations: None.

11 *Official Opinions of the Compliance Board* 72 (2017)
Greenbelt City Council
November 15, 2017
Topics Discussed: Meeting Notice Content; Public Body's Vote to Close; Announcement/Acknowledgment of Violation
Opinion: The public body did not violate the Act. The Compliance Board commended the public body for bringing its notices into compliance in response to the Compliance Board's opinion in 11 *OMCB Opinions* 12 (2017) and for providing the public with ample notice of, and about, its closed sessions.
Violations. None.

11 *Official Opinions of the Compliance Board* 74 (2017)
County Council of Dorchester County (Council)
November 15, 2017
Topics Discussed: Meeting Notice; Exceptions Permitting Closed Session; and Closed Session Discussion and Minutes
Opinion: The public body violated §§ 3-302, 3-305, and 3-306 with regard to its conduct of its closed sessions.
Violations: §§ 3-302, 3-305, and 3-306

11 *Official Opinions of the Compliance Board* 78 (2017)
Prince George's County Council
November 22, 2017
Topics Discussed: Meeting Notice: Content, Method, and Timing; Agenda Requirement; and Closed Session: Written Statement and Summary.
Opinion: The public body did not post adequate notice of its "agenda briefing" sessions and retreats. As a consequence of the notice violations, the public body violated § 3-301, the open-meeting requirement, by meeting in sessions that were effectively closed to the public. The public body violated § 3-305(d) by failing to state its reasons for closing on its written closing statements and violated § 3-306(c)(2) with regard to its disclosures about the events of its closed sessions.
Violations: §§ 3-301, 3-302, 3-305(d), 3-306(c)(2), 3-306(e)

11 *Official Opinions of the Compliance Board* 85 (2017)
Board of County Commissioners for Charles County
December 1, 2017
Topics Discussed: Exceptions Permitting Closed Sessions; Closed Session: Discussion and Written Statement; and Open Session Minutes
Opinion: The public body violated the Act by holding closed sessions without making adequate disclosures before and after those sessions. As a consequence of the violations, members of the public had little information about what the public body would discuss behind closed doors and no information on why the public body had decided to exclude them.
Violations: §§ 3-305(b), 3-305(c), 3-305(d), and 3-306(c)(2)

11 *Official Opinions of the Compliance Board* 88 (2017)
Maryland Committee on Paid Leave Policy
December 11, 2017
Topics Discussed: Public Body Definition
Opinion: The entity is not a "public body" as defined by the Act.
Violations: None

11 *Official Opinions of the Compliance Board* 90 (2017)
Downtown Frederick Hotel Advisory Committee
December 15, 2017
Topics Discussed: Public Body Definition
Opinion: When the entity was formed, it was an informal private group and was not a "public body" as defined by the Act. However, the City Council later adopted, by resolution, a memorandum of understanding that assigned certain functions to the entity. Although that fact might suggest that the entity is now an arm of the City, the Compliance Board is unable to reach that inference from the facts before it.
Violations: N/A (complaint not resolved)

http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx.

[18-01-21]

The Judiciary

COURT OF APPEALS OF MARYLAND

DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of the Court of Appeals dated December 13, 2017, **JERRY SUSSMAN**, 801 North Monroe Street, Apartment 531, Arlington, Virginia 22201, has resigned from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 19-735e)).

* * * * * * * * * *

This is to certify that by an Order of the Court of Appeals dated December 11, 2017, **DIANA BETH DENRICH**, 5100 Buckeystown Pike, Suite 250, Frederick, Maryland 21704, has been disbarred by consent, effective immediately from the further practice of law in the State, and her 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 December 20, 2017, **DAVID LESLIE MCGILL**, 3514 Churchville Road, Aberdeen, Maryland 21001, has been placed on inactive status by consent, effective immediately, from the further practice of law in the 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 Opinion & Order of the Court of Appeals dated December 15, 2017, **BENJAMIN JEREMY WOOLERY**, 5303 West Court Drive, P.O. Box 358, Upper Marlboro, MD 20773, has been Reprimanded.

[18-01-24]

Regulatory Review and Evaluation

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

Title 10
MARYLAND DEPARTMENT OF HEALTH

Notice of Opportunity for Public Inspection and Comment

In accordance with the Regulatory Review and Evaluation Act, State Government Article, §§ 10-130—10-139, Annotated Code of Maryland, the Maryland Department of Health (MDH) is reviewing and evaluating certain regulations codified within Title 10 of the Code of Maryland Regulations listed below. The purpose of the review and evaluation is to determine whether existing regulations continue to accomplish the purposes for which they were adopted, clarify ambiguous or unclear language, and repeal obsolete or duplicative provisions.

The regulations being reviewed are:

Subtitle 48 CHILD ABUSE AND NEGLECT MEDICAL REIMBURSEMENT PROGRAM

COMAR 10.48.01 Services

Subtitle 52 PREVENTIVE MEDICINE

COMAR 10.52.06 Use of Tanning Devices by Minors
COMAR 10.52.17 Maryland Asthma Control Program

Regulations maybe found online at:
http://www.dsd.state.md.us/COMAR/searchall.aspx

Interested parties may submit comments to phpa.oss@maryland.gov, by mail to 201 West Preston Street, Room 324, Prevention and Health Promotion Administration, Baltimore, MD 21201, or fax to (410) 333-5995 with the subject "Environmental Health RREA COMAR 10.xx.xx" specifying the regulation. Comments must be received no later than January 12, 2018, 11:59 p.m.

[18-01-10]

Title 11
DEPARTMENT OF TRANSPORTATION

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Reports concerning COMAR 11.15 — 11.19 are available for public inspection and comment for a period of 60 days following the date of this notice.

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

Information may be obtained by contacting Tracey C. Sheffield, Regulations Coordinator, at 410-768-7545 or email at tsheffield@mdot.state.md.us.

[18-01-18]

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 09
DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 23 BOARD FOR PROFESSIONAL ENGINEERS

09.23.06 Continuing Professional Competency Requirements

Authority: Business Occupations and Professions Article, §14-314, Annotated Code of Maryland

Notice of Final Action

[17-216-F]

On December 14, 2017, the Board for Professional Engineers adopted amendments to Regulations **.02.—.05**, the repeal of existing Regulations **.06**, **.07**, **.16**, and **.17**, new Regulation **.06**, amendments to and the recodification of existing Regulations **.08—.11** and **.13—.15** to be Regulations **.07—.10** and **.12—.14**, respectively, and the recodification of existing Regulation **.12** to be Regulation **.11** under **COMAR 09.23.06 Continuing Professional Competency Requirements**. This action, which was proposed for adoption in 44:19 Md. R. 900—902 (September 15, 2017), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 15, 2018.

Attorney General's Certification

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

COMAR 09.23.06.04B: Changed to correct a typographical error by bracketing §B(8).

COMAR 09.23.06.06: Based on public comment, changed the values of units in §A(4) and (5) from 3 units and 16 units to 5 units and 24 units, respectively.

.04 *Qualifying* Programs

A. (proposed text unchanged)

B. Qualifying programs *shall have the following content areas:*

(1) — (5) (proposed text unchanged)

(6) Project management, risk assessment and management, or emergency and disaster management; *or*

(7) Similar topics aimed to maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice **[[**; or**]]**.

[[*(8)* Development of traits, skills, or behavioral patterns geared towards improved communications skills, oral and written skills, personal management skills, or other similar programs which contain a clear purpose of improving a licensee's methods of practice or operations or advancing professionally related skill and practices as applicable to the practice of engineering.**]]**

C. (proposed text unchanged)

.06 Values of Units.

A. PDH units are earned or converted from other units of credit as follows:

(1) — (3) (proposed text unchanged)

(4) Each published paper or article on an engineering subject as identified in Regulation . 04 of this chapter — **[[***3***]]** *5 PDH units;*

(5) Each published book on an engineering subject — **[[***16***]]** *24 PDH units;*

(6) — (9) (proposed text unchanged)

B. (proposed text unchanged)

STEVE LONG
Executive Director

Title 10
MARYLAND DEPARTMENT OF HEALTH

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.89 1915(i) Intensive Behavioral Health Services for Children, Youth, and Families

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

Notice of Final Action

[17-262-F]

On December 19, 2017, the Secretary of Health adopted amendments to Regulations **.10—.14** under **COMAR 10.09.89 1915(i) Intensive Behavioral Health Services for Children, Youth, and Families**. This action, which was proposed for adoption in 44:22 Md. R. 1044—1045 (October 27, 2017), has been adopted as proposed.

Effective Date: January 15, 2018.

DENNIS SCHRADER
Secretary of Health

Subtitle 24 MARYLAND HEALTH CARE COMMISSION

10.24.11 State Health Plan for Facilities and Services: General Surgical Services

Authority: Health-General Articles, §§19-109(a)(1), 19-114(b)(2) and (d)(1)(iv) and (viii), 19-118(a)(2)(i), and 19-120(j)(2)(iv), (k)(9), and (o)(1) and (3), Annotated Code of Maryland

Notice of Final Action

[17-264-F-I]

On December 21, 2017, the Maryland Health Care Commission adopted Regulation **.01** under **COMAR 10.24.11 State Health Plan for Facilities and Services: General Surgical Services**. This action was considered by the Commission at an open meeting held on December 21, 2017, notice of which was given through publication in the Maryland Register, pursuant to General Provisions Article, §3-302, Annotated Code of Maryland. This action, which was proposed for adoption in 44:22 Md. R. 1046—1047 (October 27, 2017), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 15, 2018.

Attorney General's Certification

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

The language added as COMAR 10.24.11.01, originally proposed in 44:22 Md. R 1046-1047 (October 27, 2017), remains unchanged. The language in Paragraph .06B(4)(c), which is incorporated by reference, has been clarified. Specifically, the phrase "through an" is deleted and replaced with the words "in conjunction with this". This change makes it clear that the exemption process referenced is the exemption process available for establishment of a freestanding medical facility. There is also an exemption process for the separate establishment of an ambulatory surgical facility that is available in certain circumstances. Without the proposed change, there could be confusion about which exemption process is referenced. The non-substantive clarification recommended by staff is shown below.

.06 Exemption from Certificate of Need Review for the Establishment of an Ambulatory Surgical Facility.

B. General and Project Review Standards.

(4) Location.

(a)—(b) (proposed text unchanged)

(c) A general hospital seeking an exemption to convert to a freestanding medical facility that is also seeking to establish an ambulatory surgical facility **[[***through an***]]** *in conjunction with this exemption process shall locate the proposed ambulatory surgical facility on the campus of the freestanding medical facility or an immediately adjacent location.*

ROBERT E. MOFFIT, Ph.D.
Chair

Subtitle 37 HEALTH SERVICES COST REVIEW COMMISSION

10.37.10 Rate Application and Approval Procedures

Authority: Health-General Article, §§19-207, 19-212, 19-216, *19-218,*19-219, *19-220*, and 19-222, Annotated Code of Maryland

Notice of Final Action

[17-263-F]

On December 13, 2017, the Health Services Cost Review Commission adopted amendments to Regulations **.03**, **.03-1**, **.04-1**, **.04-2**, **.04-3**, and **.11** under **COMAR 10.37.10 Rate Application and Approval Procedures**. This action, which was proposed for adoption in 44:22 Md. R. 1050—1054 (October 27, 2017), has been adopted as proposed.

Effective Date: January 15, 2018.

NELSON SABATINI
Chairman
Health Services Cost Review Commission

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 02 ACADEMIC REGULATIONS

13B.02.06 Financial Guarantees and the Maryland Guaranty Student Tuition Fund for For-Profit Institutions of Higher Education

Authority: Education Article, §§11-105(u) and 11-203, Annotated Code of Maryland

Notice of Final Action

[17-163-F]

On December 13, 2017, the Maryland Higher Education Commission adopted Regulations **.01—.13** under a new chapter, **COMAR 13B.02.06 Financial Guarantees and the Maryland Guaranty Student Tuition Fund for For-Profit Institutions of Higher Education**. This action, which was proposed for adoption in 44:13 Md. R. 634—638 (June 23, 2017), has been adopted as proposed.

Effective Date: January 15, 2018.

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

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 09
DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 32 UNEMPLOYMENT INSURANCE

09.32.11 Lower Appeals Division — Appeals Procedure

Authority: Labor and Employment Article, §8-504, Annotated Code of Maryland.

Notice of Proposed Action

[17-322-P]

The Secretary of Labor, Licensing, and Regulation proposes to amend Regulations **.01**, **.02**, and **.04** under **COMAR 09.32.11 Lower Appeals Division — Appeals Procedure**.

Statement of Purpose

The purpose of this action is to propose revisions to reflect statutory changes restoring employers' first level of appeal to the Lower Appeals Division before appealing to the Board of Appeals in employer account cases. An additional purpose is to update language to conform to terms of Labor and Employment Article, Title 8, Annotated Code of 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 Judy Smylie, Director/Chief Hearing Examiner, Lower Appeals Division, Department of Labor, Licensing, and Regulation, 1100 N. Eutaw Street, Room 511, Baltimore, MD 21201, or call 410-767-2421, or email to judy.smylie@maryland.gov, or fax to 410-767-2532. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.01 Filing of Appeal.

A. Manner of Filing.

(1) An appeal from a claims examiner's determination *or an appeal of a review determination* shall be in writing and signed by the party appealing, or the party's attorney or authorized representative. The appeal may be filed by mail, by facsimile, by hand delivery to the Lower Appeals administrative office at the Lower Appeals Division address listed on the benefit determination *or review determination*, or by **[**electronic mail**]** *other electronic means* in a format approved by the Chief Hearing Examiner.

(2) In the event of an appeal from a determination of a claims examiner involving more than one claimant on the same issue, the appeal may be filed by the individual claimants or by an authorized representative on their behalf. The authorized representative shall submit, together with the appeal, a list containing the names, addresses, and *last four digits of the* Social Security numbers of the claimants who are parties to the appeal.

B. Time for Filing.

(1) An appeal *from a claims examiner's determination* shall be filed within 15 calendar days after the determination is mailed *or otherwise sent* to the last known address of the party.

(2) An appeal from a review determination shall be filed within 30 calendar days after the review determination is mailed or otherwise sent to the last known address of the party.

[(2)**]** *(3)* An appeal is considered filed on the earliest of the following dates:

(a) — (c) (text unchanged)

(d) The date an appeal is received by facsimile or *other* electronic **[**mail**]** *means in a format approved by the Chief Hearing Examiner* at the administrative office of the Lower Appeals Division.

[(3)**]** *(4)* The period for filing an appeal from the claims examiner's determination *or an appeal of a review determination* may be extended by the Hearing Examiner for good cause shown.

.02 Hearings Before the Hearing Examiner

A. (text unchanged)

B. Notice of Hearing.

(1) The interested parties shall be given at least 7 *business* days notice in writing of the time and place of any hearing before the Hearing Examiner.

(2) Notice is sufficient when mailed to the party, postage prepaid, at the last known post office address of the party *or by electronic means in a format approved by the Chief Hearing Examiner, if the party has opted to receive notice by electronic means*.

(3) In the case of appeals filed under Regulation .01A(2) of this chapter, notice **[**mailed to the attorney or authorized representative, plus notice mailed**]** *sent in accordance with §B(2) of this regulation to the attorney or authorized representative, and* to each individual appellant who filed an individual appeal or who requested individual notice, shall be sufficient notice to all parties represented by the attorney or authorized representative.

(4) (text unchanged)

C. Pretrial Conference. In appeals of review determinations resolving issues arising under Labor and Employment Article, §8-602(a)(2) and (5), Annotated Code of Maryland, the Chief Hearing Examiner may consider a motion of a party requesting a scheduling conference to resolve preliminary issues including, but not limited to, the exchange of documentation, the exchange of lists of potential witnesses, and proposed stipulations.

[C.**]** *D.* — **[**D.**]** *E.* (text unchanged)

[E.**]** *F.* Issues. The Hearing Examiner shall inquire fully into the facts of the particular case. A Hearing Examiner shall consider the issue expressly ruled upon in the determination *of the claims examiner or the review determination* from which the appeal was filed.

[F.**]** *G.* (text unchanged)

[G.**]** *H.* Attorney's Fees.

(1) (text unchanged)

(2) Requests for approval of fees greater than 200 percent of the claimant's weekly benefit amount shall be accompanied by an itemized account of services rendered in the case. A request for the excess fee shall be submitted within 30 *calendar* days of the date of the issuance of the decision. The Chief Hearing Examiner shall have authority to approve a fee higher than the maximum allowed under **[**§G(1)**]** *§H(1)* of this regulation based upon the complexity of the case and the reasonableness of the fee. The fee shall be reviewable by the Board of Appeals upon written protest of either the claimant or the attorney.

(3) The fee amounts set out in **[**§G(1)**]** *§H(1)* and (2) of this regulation may be awarded for each level of appeal.

(4) (text unchanged)

[H.**]** *I.* (text unchanged)

[I.**]** *J.* Evidence.

(1) — (2) (text unchanged)

(3) Agency Record. For purposes of an appeal from a claims examiner's determination, the official Agency record shall consist of the appeal letter and envelope or other evidence showing its manner of submission, and the Agency Fact Finding Report. *For purposes of an appeal from a review determination, the official Agency record shall consist of the appeal letter and envelope or other evidence showing its manner of submission, and the review determination under review.* Upon request of a party to an appeal for information from other records of the Department, the Hearing Examiner shall forward the request to the Secretary so that information that may be relevant and pertinent and that is not by definition a part of the Agency record, may be furnished by the Secretary. Upon request, any party shall be furnished with any information contained in the official Agency record, or other Agency documents in the custody of the Secretary that may be pertinent or material to the case. Requests for this information shall be made at least 3 business days before the hearing and shall state, as nearly as possible, the nature of the information desired. Requests made after this time will be granted only at the discretion of the scheduling authority. The records of the Department of Labor, Licensing, and Regulation shall be deemed self-authenticating for purposes of admission under the Rules of Evidence. The Hearing Examiner shall admit the Agency record, including the Agency Fact-Finding Report, into evidence at the hearing, without the need for an Agency representative to appear at the hearing to authenticate or introduce it. The Hearing Examiner shall consider the Agency record when making a final decision, giving weight to the Agency Fact-Finding Report that the Hearing Examiner deems appropriate.

(4) Evidence of Medical Condition. In any case where the medical condition of a party is at issue, the Hearing Examiner, for good cause shown, may grant a party up to 10 *calendar* days after the hearing to submit written medical documentation.

[J.**]** *K.* — **[**L.**]** *M.* (text unchanged)

[M.**]** *N.* Withdrawal of Appeals. At any time before the hearing, a party appealing from a determination of a claims examiner *or appealing a review determination* may request that the appeal be withdrawn, and the Hearing Examiner shall permit the withdrawal. After the hearing has commenced or concluded, a withdrawal may be permitted for good cause shown. A request for withdrawal shall be submitted in writing or placed on the record during a hearing. An approved withdrawal is a final decision and is not subject to a request to reopen.

[N.**]** *O.* Dismissal of Appeal When Appealing Party Fails to Appear. If a party appealing the determination of a claims examiner *or appealing a review determination* fails to appear at a hearing after having been given the required notice, the Hearing Examiner may issue a decision on the facts available or may dismiss the appeal. Failure to be present at the location designated for the hearing within 10 minutes of the time scheduled shall be considered a failure to appear within the meaning of this section.

[O.**]** *P.* Request by Appealing Party to Reopen Dismissed Case.

(1) (text unchanged)

(2) A request to reopen a case may be granted for the following reasons:

(a) The party received the hearing notice on or after the date of the hearing as a result of:

(i) An untimely or incorrect mailing *or electronic transmission* of a hearing notice; or

(ii) (text unchanged)

(b) (text unchanged)

(c) A party requested a postponement for the reasons listed in **[**§O(2)(a)**]** *§P(2)(a)* or (b) of this regulation, but it was improperly denied.

(3) (text unchanged)

(4) A request to reopen a case dismissed by a Hearing Examiner shall be delivered or postmarked within 7 *business* days after the date the dismissal was mailed to the last known address of the requesting party. The Chief Hearing Examiner may:

(a) Grant the requesting party up to 10 *calendar* days to provide documentary evidence of the reason for the requested reopening; or

(b) (text unchanged)

(5) — (8) (text unchanged)

[P.**]** *Q.* (text unchanged)

[Q.**]** *R.* Postponement of Hearings.

(1) (text unchanged)

(2) Subject to the requirements of **[**§Q(5)**]** *§R(5)* of this regulation, a request for postponement shall be considered only if the request is received by the Chief Hearing Examiner at least 3 business days before the hearing.

(3) – (4) (text unchanged)

(5) A request for a postponement that is not received by the Chief Hearing Examiner at least 3 business days before the hearing may be granted for good cause if:

(a) The request for postponement was postmarked at least 5 *calendar* days before the hearing date but was not received by the Lower Appeals Division until after the time set in **[**§Q(2)**]** *§R(2)* of this regulation;

(b) An error on the part of the Lower Appeals Division has caused such a delay in the requesting party's receipt of the hearing notice that the requirement of **[**§Q(2)**]** *§R(2)* of this regulation could not reasonably be met, and the requesting party has taken timely and reasonable steps to request a postponement as soon as possible after receipt of the hearing notice; or

(c) (text unchanged)

[R.**]** *S.* Witness Fees.

(1) (text unchanged)

(2) Fees allowed in accordance with **[**§R(1)**]** *§S(1)* of this regulation for witnesses subpoenaed shall be paid by the Lower Appeals Division.

[S.**]** *T.* Telephone Conference Hearings.

(1) — (2) (text unchanged)

(3) In all telephone hearings, documentary evidence which a party intends to offer shall be mailed, *or sent via electronic means in a format approved by the Chief Hearing Examiner if the parties have opted to receive notice by electronic means,* to the Hearing Examiner and all other parties **[**at least 5 days**]** before the hearing. The Hearing Examiner may refuse to consider evidence that is not timely **[**mailed**]** *sent to or received by the Hearing Examiner and all parties before the hearing*. Before the acceptance of any evidence **[**received by mail**]**, the Hearing Examiner shall allow the opposing party to cross-examine the submitting party or witness concerning the nature and authenticity of the proffered **[**document**]** *evidence*. A party shall be afforded all rights at a telephone hearing to which the party would be entitled at a regular hearing, subject only to the limitations of the physical arrangement.

(4) (text unchanged)

.04 Review by the Board of Appeals.

If the Hearing Examiner does not affirm the determination of the claims examiner *or the review determination*, the decision shall be accompanied by the notice of the right of appeal to the Board of Appeals. If the Hearing Examiner affirms the determination of the claims examiner *or the review determination*, the decision shall be accompanied by the notice of the provisions of the law providing for petition for review *to request a discretionary appeal*.

KELLY M. SCHULZ
Secretary of Labor, Licensing, and Regulation

Title 10
MARYLAND DEPARTMENT OF HEALTH

Subtitle 07 HOSPITALS

10.07.01 Acute General Hospitals and Special Hospitals

Authority: Health-General Article, §§19-308, *19-342,* **[**and**]** 19-349.1, *and 19-380—19-385*, Annotated Code of Maryland

Notice of Proposed Action

[17-317-P]

The Secretary of Health proposes to amend Regulations **.01** and **.29** and adopt new Regulations **.35—.37** under **COMAR 10.07.01 Acute General and Special Hospitals**.

Statement of Purpose

The purpose of this action is to:

(1) Comply with Ch. 377 (HB 1277), Acts of 2016, regarding the designation of lay caregivers;

(2) Clarify the hospitals' statutory requirements to comply with the Maryland Health Care Decisions Act;

(3) Clarify the requirements for hospitals to notify patients of outpatient status; and

(4) Update this chapter to match other sections of COMAR under the purview of OHCQ as it relates to patient rights.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(4-1) Aftercare.

(a) "Aftercare" means any assistance provided by a lay caregiver to a patient after discharge of the patient.

(b) "Aftercare" includes tasks that are limited to the patient's condition at the time of discharge that do not require a licensed professional.

(5)—(18) (text unchanged)

(18-1) "Lay caregiver" means an individual who:

(a) Is an adult;

(b) Is designated as a lay caregiver by a patient or the legal guardian of a patient; and

(c) Performs aftercare for the patient at the residence of the patient.

(19)—(30) (text unchanged)

(30-1) Residence.

(a) "Residence" means a dwelling that a patient considers to be home.

(b) "Residence" does not include:

(i) A rehabilitation facility;

(ii) A hospital;

(iii) A nursing home;

(iv) An assisted living; or

(v) A group home licensed by the State.

(31)—(37) (text unchanged)

.29 Notice to Patients of Outpatient on Observation Status.

A.—E. (text unchanged)

F. For Medicare patients only, a hospital has the option to provide only the notice required by Medicare under 42 CFR §489.20(y). Hospitals that elect to use that option shall be considered compliant with this regulation if the notice is provided to patients that receive on-site services for more than 23 hours.

.35 Designation of Lay Caregivers.

A. A hospital shall provide a patient or legal guardian of a patient with an opportunity to designate one lay caregiver before the discharge of the patient to their residence.

B. The hospital's discharge planning shall include the designation of the lay caregiver as soon as practicable in the discharge planning process to allow for post discharge training.

C. If a patient or legal guardian of a patient declines to designate a lay caregiver, the hospital shall:

(1) Document the decision in the patient's medical record; and

(2) Be deemed to be in compliance with this regulation.

D. If a patient or legal guardian of a patient designates a lay caregiver the hospital shall record in the patient's medical record:

(1) The designation of the lay caregiver;

(2) The relationship of the lay caregiver to the patient; and

(3) The name, telephone number, and address of the lay caregiver.

E. Release of Medical Information.

(1) If the patient designates a lay caregiver, the hospital shall request the patient or legal guardian to consent in writing to release medical information to the lay caregiver. The release of records shall be in accordance with:

(a) The hospital's procedures for releasing personal health information; and

(b) All applicable federal and State laws.

(2) If a patient or legal guardian of a patient declines to consent to the release of medical information to the lay caregiver, the hospital is not required to:

(a) Provide to the lay caregiver the notice required under Health-General Article, §19-382, Annotated Code of Maryland; or

(b) Consult with the lay caregiver or provide to the lay caregiver information contained in the discharge plan issued under Health-General Article, §19-383, Annotated Code of Maryland.

F. A patient or a legal guardian of the patient may change the designation of a lay caregiver in the event the lay caregiver becomes incapacitated.

G. Regardless of the desire of the patient or legal guardian of the patient, the designated lay caregiver is not obligated to perform any aftercare for the patient.

H. A patient or legal guardian is not required to designate a lay caregiver.

I. Hospital Obligations.

(1) If a patient or legal guardian of a patient designates a lay caregiver, the hospital shall notify the lay caregiver as soon as practicable of the discharge of the patient or the patient's transfer to another hospital, licensed health care facility or other residential facility.

(2) As soon as practicable before the discharge of a patient, the hospital shall attempt to:

(a) Consult with the patient's lay caregiver to prepare the lay caregiver for the patient's aftercare; and

(b) Issue a discharge plan that describes the aftercare needs of the patient.

(3) The hospital shall make reasonable attempts to consult with the lay caregiver.

(4) The inability of the hospital to consult with a lay caregiver may not interfere with, delay, or otherwise affect the medical care provided to the patient or the patient's planned discharge.

(5) The hospital shall document successful or unsuccessful attempts to contact the lay caregiver.

J. Discharge Planning Requirements. Regardless of the request for the designation of a lay caregiver, the hospital shall comply with all discharge planning requirements in:

(1) Regulation .27 of this chapter;

(2) The standards imposed under the hospital's accreditation by a State-approved accreditation organization; and

(3) 42 CFR §482.43.

K. The designation of a lay caregiver may not:

(1) Interfere with the rights of an agent to make health care decisions under Health-General Article, Title 5, Subtitle 6, Annotated Code of Maryland; or

(2) Create a private right of action against a hospital, a hospital employee, or a duly authorized agent of a hospital or otherwise supersede or replace existing rights or remedies under any other State or federal law.

.36 Patient Rights.

A. A hospital shall develop a listing of the rights of patients that is consistent with the requirements of:

(1) The Joint Commission;

(2) Health-General Article, §19-342, Annotated Code of Maryland; and

(3) 42 CFR §482.13.

B. The hospital's patient rights shall at minimum address:

(1) Patient privacy and confidentiality;

(2) Informed decision making and informed consent;

(3) Visitation;

(4) Advance directives;

(5) Access to patient medical records;

(6) Complaint and grievance process;

(7) Freedom from:

(a) Physical or mental abuse;

(b) Neglect;

(c) Harassment; or

(d) Corporal punishment;

(8) A patient's right to expect and receive appropriate assessment, management, and treatment of pain as an integral component of the patient's care; and

(9) Communication in a manner the patient can understand.

C. All patients receiving services at the hospital, have the right to receive written copies of the hospital's patient rights.

D. The hospital's patient rights shall be easily accessible to patients and visitors.

E. Hospital staff who are responsible for patient care shall:

(1) Receive training regarding the hospital's patient rights; and

(2) Be able to assist patients and their families to:

(a) Access the services of the hospital's patient advocacy staff;

(b) File a complaint or grievance; or

(c) Obtain a written copy of the hospital's patient rights documents.

.37 Maryland Health Care Decisions Act.

A hospital shall comply with the requirements of Health-General Article, Title 5, Subtitle 6, Annotated Code of Maryland.

DENNIS SCHRADER
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.22 Free-Standing Dialysis Facility Services

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

Notice of Proposed Action

[17-319-P]

The Secretary of Health proposes to amend Regulations **.01** and **.03—.05**, repeal existing Regulation **.06**, amend and recodify existing Regulations **.07—.09** to be Regulations **.06—.08**, and recodify existing Regulations **.10** and **.11** to be Regulations **.09** and **.10** under **COMAR 10.09.22 Free-Standing Dialysis Facility Services**.

Statement of Purpose

The purpose of this action is to:

(1) Clarify conditions for participation and covered services; and

(2) Update specific terms and definitions.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1)—(5) (text unchanged)

(6) "Dietitian-nutritionist" means an individual who is licensed as a dietitian-nutritionist by the Board of Dietetic Practice to practice dietetics in Maryland.

[(6)**]** *(7)*—**[**(7)**]** *(8)* (text unchanged)

[(8)**]** *(9)* "Home dialysis" means hemodialysis or peritoneal dialysis performed regularly in the home **[**and assisted by**]** *with the assistance of* a family member or the patient's caregiver.

[(9)**]** *(10)* (text unchanged)

(11) "Licensed practical nurse (LPN)" means an individual licensed to practice licensed practical nursing as defined in Health Occupations Article, §8-301, Annotated Code of Maryland.

[(10)**]** *(12)*—**[**(12)**]** *(14)* (text unchanged)

(15) "Nurse practitioner" means an individual who is licensed and certified to practice as a nurse practitioner as defined in Health Occupations Article, §8-301, Annotated Code of Maryland.

(16) "Participant" means a person who is certified as eligible for, and is receiving, Medical Assistance benefits.

[(13)**]** *(17)* "Patient care policies" means written policies and protocols describing patient care practices and procedures established by a group of professional personnel (including one or more physicians affiliated with the free-standing dialysis facility) and approved**[**, by signature,**]** *in writing* by the facility's medical director.

[(14)**]** *(18)* "Peritoneal dialysis" means a dialysis treatment method in which waste products pass from the patient's body through the peritoneal membrane into the peritoneal **[**(abdominal)**]** cavity where the bath solution (dialysate) is introduced and removed periodically.

(19) "Physician" means an individual who is authorized under the Maryland Medical Practice Act to practice medicine in this State as stated in Health-General Article §1-101, Annotated Code of Maryland.

(20) "Physician assistant" means an individual who is licensed to practice medicine with physician supervision as stated in Health Occupations Article, §§15-301(d) and (e) and 15-302, Annotated Code of Maryland.

[(15)**]** *(21)* "Plan of care" means a written plan for evaluation, treatment, and follow-up of each **[**patient established**]** *participant documented* in the **[**individual's**]** *participant's* medical record that should include, at a minimum, the following information:

(a)—(d) (text unchanged)

(e) Plan **[**of**]** *for* treatment;

(f)—(g) (text unchanged)

[(16)**]** *(22)* (text unchanged)

[(17) "Recipient" means a person who is certified as eligible for, and is receiving, Medical Assistance benefits.**]**

(23) "Registered nurse (RN)" means an individual licensed to practice registered nursing as defined in Health Occupations Article, §8-301, Annotated Code of Maryland.

(24) "Social worker" means a person who is licensed as a social worker in accordance with COMAR 10.42.01.05.

.03 Conditions for Participation.

A. (text unchanged)

B. Specific requirements for participation in the Program as a free-standing dialysis facility include all of the following:

(1)—(2) (text unchanged)

(3) Meet the requirements of COMAR 10.30.01.05C **[**and D**]**, for a dialysis facility, home dialysis unit, or self-care dialysis facility, or all of the above.

(4) (text unchanged)

(5) Maintain adequate documentation of each **[**recipient**]** *participant* visit, as part of the plan of care**[**. The documentation**]**, *which*, at a minimum, shall include:

(a) (text unchanged)

(b) **[**Recipient's**]** *Participant's* reason for visit;

(c)—(d) (text unchanged)

(6) Have written, effective procedures for infection control which are known to all levels of staff as specified in COMAR 10.06.01 **[**and 10.30.01.11**]**.

(7) (text unchanged)

(8) Not employ or contract with a person, partnership, or corporation which the Program has disqualified from providing or supplying services to Medical Assistance **[**recipients**]** *participants***[**, unless prior approval has been received by the Department**]**.

(9) (text unchanged)

[(10) Provide for in-house program evaluation and clinical record review which assess use of services for appropriateness in meeting recipients' needs.**]**

.04 Covered Services.

A. The Program covers medically necessary services described in §B of this regulation, rendered to **[**recipients**]** *participants* in a free-standing dialysis facility, when these services are:

(1) Performed by a physician or by one of the following:

(a) **[**Certified registered physician's**]** *A physician* assistant;

(b) **[**Licensed certified**]** *A* nurse practitioner;

(c) **[**Licensed registered nurse**]** *An RN*;

(d) **[**Licensed practical nurse**]** *An LPN*;

(e) A **[**licensed**]** social worker; *or*

(f) A **[**dietician who is in compliance with Medicare requirements (42 CFR §405.2102(r)(2)) when employed by a free-standing dialysis facility**]** *dietitian-nutritionist*;

(2) Provided by *a* non-physician listed in §A(1) of this regulation, when the following

conditions are met:

(a) The individual performing the service is in the employ of, or under contract **[**to**]** *with*, the free-standing dialysis facility;

(b)—(d) (text unchanged)

(3) **[**Diagnostic, curative, palliative,**]** *Curative* or rehabilitative services, when clearly related to the **[**recipient's**]** *participant's* individual needs;

(4) Adequately described in the **[**recipient's**]** *participant's* medical record and consistent with the physician's written plan of care.

B. Covered services include:

(1) (text unchanged)

(2) Laboratory tests, supplies, and prescription drugs as related to dialysis services.

.05 Limitations.

The Program does not cover the following:

A.—C. (text unchanged)

D. **[**Services denied by Medicare as not medically necessary.**]** *Drugs and supplies which are acquired at no cost;*

E. Injections and visits solely for the administration of injections, unless both the participant's inability to take oral medications and medical necessity for the injections are documented in the participant's medical record;

F. Travel expenses;

G. Specimen collection, except by venipuncture and capillary or arterial puncture, as a separate service;

H. Laboratory or X-ray services performed by another facility;

I. Completion of forms and reports;

J. Broken or missed appointments; and

K. Professional services rendered by mail or telephone.

[.07] *.06* Payment Procedures.

A. Reimbursement Principles.

(1) Reimbursement by the Program is for services *described in Regulation .04B of this chapter* provided at a free-standing dialysis facility which has been approved for Medicare by the Division of Survey and Certification of CMS.

(2) Reimbursement shall be consistent with the rates established by the **[**Maryland Medical Assistance**]** Program for those services which are approved by Medicare.

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

B.—G. (text unchanged)

H. The Program will make no direct payment to a **[**recipient**]** *participant*.

I.—J. (text unchanged)

[.08] *.07* Recovery and Reimbursement.

A. If the **[**recipient**]** *participant* has insurance or if any other person is obligated either legally or contractually to pay for, or to reimburse for, any service covered by this chapter, the provider shall seek payment from that source. If payment is made by both the Program and by the insurace or other source, the provider shall refund the Department, within 60 days of receipt, the amount paid by the Program, or by the insurance or other source, whichever is less.

B. (text unchanged)

[.09] *.08* Cause for Suspension or Removal and Imposition of Sanctions.

A. If the Department determines that a provider, any agent or employee of a provider, or any person with an ownership interest in the provider, has failed to comply with all applicable federal or State laws or regulations, the Department may initiate one or more of the following actions against the responsible party:

(1) Recovery of overpayments as specified in Regulation **[**.08**]** *.07* of this chapter;

(2)—(5) (text unchanged)

B.—C. (text unchanged)

DENNIS SCHRADER
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.24 Medical Assistance Eligibility

Authority: Estates and Trusts Article, §14.5-1002; Health-General Article, §§2-104(b), 2-105(b), 15-103, 15-105, 15-121, and 15-401—15-407; Annotated Code of Maryland

Notice of Proposed Action

[18-006-P]

The Secretary of Health proposes to amend Regulation **.04-1** under **COMAR 10.09.24 Medical Assistance Eligibility**.

Statement of Purpose

The purpose of this action is to require the Department of Human Services (DHS) to assist Medical Assistance-Long Term Care (MA-LTC) applicants by requesting financial verification directly from financial institutions. This amendment is being proposed to support the statutory requirements imposed on the Department of Human Services as outlined in Ch. 203 (H.B. 752), Acts of 2017.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.04-1 Specific Application Requirements for MAGI Exempt Coverage Groups.

A.—L. (text unchanged)

M. Obtaining Financial Records from Fiduciary Institutions Doing Business in the State as of October 1, 2017.

(1) The Department or its designee shall inform the applicant or authorized representative in a written or electronic document of the required information and verifications needed to determine financial eligibility for Medical Assistance and the time limit for submitting the required records.

(2) The applicant or authorized representative shall provide all of the required information and verifications needed to determine financial eligibility for Medical Assistance within the time period specified in the notice from the Department or its designee.

(3) The Department or its designee shall request financial records necessary to determine the applicant's eligibility for Medical Assistance on behalf of the applicant when:

(a) The applicant or authorized representative is actively attempting to obtain financial documentation to establish eligibility but has been unable to provide the required financial information through no fault of his own from a certain fiduciary institution conducting business in the State;

(b) The applicant or authorized representative provides documentation to show their efforts to obtain the information; and

(c) The applicant or authorized representative provides a signed consent form designated by the Department or its designee to obtain the records.

(4) If the conditions set forth in §M(3) of this regulation are not met, the applicant or authorized representative remains responsible to provide the information.

(5) Reimbursement Schedule. The Department or its designee shall reimburse a fiduciary institution for providing copies of financial records in accordance with the Banks and Banking regulations found in 12 CFR §219.3, including the Reimbursement Schedule at Appendix A.

DENNIS SCHRADER
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.36 General Medical Assistance Provider Participation Criteria

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

Notice of Proposed Action

[18-007-P]

The Secretary of Health proposes to amend Regulations **.01**, **.03**, **.08**, and **.09** under **COMAR 10.09.36 General Medical Assistance Provider Participation Criteria**.

Statement of Purpose

The purpose of this action is to:

(1) Define the terms "affiliated line of business" and "affiliation";

(2) Clarify the meaning of "withhold payment";

(3) Explain the Program's policy regarding backdating enrollment effective dates for new providers; and

(4) Enable the Program to terminate enrollment for lines of business affiliated with terminated providers.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined

(1)—(2) (text unchanged)

(3) "Affiliated lines of business" means an individual or entity with an affiliation, as defined in §B(4) of this regulation, to another provider.

(4) "Affiliation" means:

(a) A 5 percent or greater direct or indirect ownership interest that an individual or entity has in another organization;

(b) A general or limited partnership interest that an individual or entity has in another organization;

(c) An interest in which an individual or entity exercises operational or managerial control over or directly or indirectly conducts the day-to-day operations of another organization, either under contract or through some other arrangement, regardless of whether the managing individual or entity is a W–2 employee of the organization; and

(d) An interest in which an individual is acting as an officer or director of a corporation.

[(3)**]** *(5)*—**[**(17)**]** *(19)* (text unchanged)

(20) "Withhold payment" means the Program's decision to not pay or suspend payment to a provider as a sanction for failure to comply with applicable federal or State laws or regulations or because of a credible allegation of fraud.

.03 Conditions for Participation.

A.—F. (text unchanged)

G. Enrollment Effective Date.

(1) Unless a provider is enrolled under the provisions of §G(2) or (3) of this regulation, the effective date of a provider's enrollment is the date the Program completes all federally required screenings, which may include a site visit, following the Program's receipt of the provider's submission of a complete application with all required supporting documents;

(2) If the Program requires the provider to be enrolled in an approved status with Medicare prior to enrollment in the Program, the enrollment effective date is the more recent of the following dates:

(a) The Medicare approval date; or

(b) 9 months before the provider's Medicaid application date.

(3) If an out-of-State provider of emergency transportation services or emergency services meets provider enrollment requirements on the date of service, the enrollment effective date is the date the provider renders the emergency services.

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

A. (text unchanged)

B. If the Program, federal government, or another state Medicaid agency terminates a provider, the Program may terminate all of the provider's affiliated lines of business enrolled with the Program.

[B.**]** *C.*—**[**D.**]** *E.* (text unchanged)

.09 Filing Appeal.

A. Source of Appeals.

(1) A provider may file an appeal from a proposed Program action to:

(a)—(b) (text unchanged)

(c) Remove the provider from the Program; **[**or**]**

(d) Disqualify the provider from future participation in the Program, either as a provider or as a person providing services for which Program payment will be claimed**[.]***; or*

(e) Recover an overpayment.

(2) (text unchanged)

B.—E. (text unchanged)

DENNIS SCHRADER
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.59 Specialty Mental Health Services

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

Notice of Proposed Action

[18-004-P]

The Secretary of Health proposes to amend Regulations **.03—.05**, **.07**, and **.09** under **COMAR 10.09.59 Specialty Mental Health Services**.

Statement of Purpose

The purpose of this action is to add:

(1) References to COMAR 10.63 Community-Based Behavioral Health Programs and Services, the Behavioral Health Administrations' new regulations for licensing and service descriptions, which will replace COMAR 10.21 Mental Hygiene Regulations effective April 1, 2018;

(2) Some specific service requirements under COMAR 10.21, which will be repealed on March 31, 2018;

(3) Pediatric Primary Care Mental Health Specialists to the list of approved individual practitioner providers who may participate in the public mental health system; and

(4) Requirements for providers of psychiatric rehabilitative services to identify by National Provider Identifier (NPI) on the claim the ordering provider, who shall be an individual enrolled in the Program with an active status on the date of service, in order for the claim to be paid.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.03 General Conditions for Provider Participation.

To participate in the Program, a provider shall:

A. (text unchanged)

B. Meet the conditions for licensure and practice as set forth in COMAR 10.63.01, 10.63.02, and 10.63.06;

[B.**]** *C.*—**[**C.**]** *D.* (text unchanged)

.04 Provider Requirements for Participation.

A. Individual Practitioner Providers. To participate in the Program as an individual practitioner of specialty mental health services, the provider shall:

(1) (text unchanged)

(2) Demonstrate, by training and experience, the competency to provide mental health services as one of the following:

(a)—(b) (text unchanged)

(c) A pediatric nurse practitioner with a PMHS;

[(c)**]** *(d)*—**[**(h)**]** *(i)* (text unchanged)

B. Community Mental Health Program Providers. To participate in the Program as a community-based mental health program provider, the provider shall be approved under **[**COMAR 10.21.16 and**]** *COMAR 10.63.01, 10.63.02, and* 10.63.06**[**, whichever is applicable,**]** *and possess certification* by the **[**Office of Health Care Quality**]** *Behavioral Health Administration* as:

(1) A psychiatric rehabilitation program *serving adults* in compliance with**[**:**]** *COMAR 10.63.03.09;*

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

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

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

(2) A psychiatric rehabilitation program serving minors in compliance with COMAR 10.63.03.10;

[(2)**]** *(3)* A mobile treatment program in compliance with:

[(a) COMAR 10.21.17 and 10.21.19 if approved; and

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

(a) COMAR 10.63.03.04;

(b) The requirement for a multidisciplinary team consisting of, at a minimum:

(i) A program director that is a mental health professional;

(ii) A psychiatrist;

(iii) A licensed registered nurse;

(iv) At least one licensed social worker or licensed graduate social worker;

(v) At least one mental health professional who may include the staff identified in §B(3)(b)(iii) and (iv) of this regulation; and

(c) The requirement for sufficient staffing to fulfill the following service requirements including:

(i) Initial and continuing psychiatric evaluation, diagnosis, and individual treatment planning;

(ii) Medication services;

(iii) Independent living skills assessment and training;

(iv) Health promotion and training;

(v) Interactive therapies;

(vi) Crisis intervention services; and

(vii) Support, linkage, and advocacy; or

[(3)**]** *(4)* An outpatient mental health clinic in compliance with:

[(a) COMAR 10.21.17 and 10.21.20 if approved; and

(b) COMAR 10.63.01 and 10.63.03.05 if licensed.**]**

(a) COMAR 10.63.03.05; and

(b) Staffing requirements as described in COMAR10.63.03.05 and including:

(i) A program director who is a licensed mental health professional or has a master's degree in a related field and is employed by the OMHC and is on-site for at least 20 hours per week;

(ii) A medical director as described in COMAR 10.63.03.05;

(iii) A multidisciplinary licensed mental health professional staff as described in COMAR 10.63.03.05, including representatives of two different mental health professions, both of whom shall be on-site 50 percent of the OMHC's regularly scheduled hours;

(iv) Graduate level students and interns, who may deliver services under supervision of a licensed mental health professional and when a licensed mental health professional co-signs all documentation of contact with participants.

C. (text unchanged)

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

(1) (text unchanged)

(2) Residential treatment center in compliance with:

(a) COMAR 10.07.04 and 10.09.29; **[**or**]** *and*

(b) COMAR 10.21.06;

(3) Hospital in compliance with COMAR **[**10.09.06**]** *10.09.92—10.09.95*;

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

[(a) COMAR 10.21.17 and 20.21.02 if approved; and

(b) COMAR 10.63.01 and 10.63.03.08 if licensed;**]**

(a) COMAR 10.63.03.08;

(b) Staffing requirements described in 10.63.03.08 and including:

(i) A multidisciplinary team employed at least on a part-time basis; and

(ii) A program director;

(c) Service requirements as described in 10.63.03.08 and including:

(i) An individual treatment plan developed by the multi-disciplinary team within 4 working days of admission;

(ii) Psychopharmacological treatment;

(iii) Occupational therapy;

(iv) Activity therapy; and

(v) Other necessary medical, psychological, and social services; and

(d) COMAR 10.05.01.11 for requirements of the physical environment;

(5)—(8) (text unchanged)

.05 Eligibility.

A. A participant is eligible for specialty mental health services if:

[A.**]** *(1)* — **[**B.**]** *(2)* (text unchanged)

B. Individuals are eligible for Psychiatric Rehabilitation Programs for adults if the individual:

(1) Has been referred for psychiatric rehabilitation program services by a licensed mental health professional who:

(a) Is enrolled as a provider in the Program with an active status on the date of service;

(b) Is unaffiliated with the psychiatric rehabilitation program; and

(c) Provides inpatient, residential treatment center, or outpatient mental health services to the individual;

(2) Has a diagnosis listed in COMAR 10.09.70.02K; and

(3) Is in need of program services in order to improve or restore independent living and social skills necessary to support the individual's recovery, ability to make informed decisions and choices, and participation in community life.

C. Individuals are eligible for Psychiatric Rehabilitation Programs for minors if the individual:

(1) Has been referred for psychiatric rehabilitation program services by a licensed mental health professional who:

(a) Is enrolled as a provider in the Program with an active status on the date of service;

(b) Is unaffiliated with the psychiatric rehabilitation program; and

(c) Provides inpatient, residential treatment center, or outpatient mental health services to the minor;

(2) Is currently in, and remains in, active mental health treatment;

(3) Has the appropriate consent to participate in psychiatric rehabilitation program services;

(4) Has a diagnosis listed in COMAR 10.09.70.02K and severe functional impairments in at least one life domain;

(5) With psychiatric rehabilitation program services, is expected to have reduced symptoms of their mental illness or functional behavioral impairment as a result of their mental illness based on the clinical evaluation and ongoing treatment plan; and

(6) Is at risk for requiring a higher level of care, or is returning from a higher level of care.

D. Individuals are eligible for Mobile Treatment Services if it is assessed that the individual will benefit from mobile treatment services and the individual is:

(1) Experiencing homelessness;

(2) Unable or unwilling to use, on a continuing basis, community-based mental health services that are prescribed for the individual; or

(3) In an institution or inpatient facility and would be able to reside in a community setting if the individual received MTS and other appropriate support services.

.07 Limitations.

The Program does not cover the following:

A.—S. (text unchanged)

T. Services rendered but not appropriately documented; **[**and**]**

U. Services reimbursed by the ASO not included in this chapter**[.]***;*

V. Mobile Treatment or ACT Services without a minimum of four face to face in person services provided per month;

W. Services rendered by community based specialty mental health programs with an immediate family member of an employee of the program serving on the governing body, board of directors, or advisory committee, whichever applies; and

X. Psychiatric rehabilitation services referred by:

(1) A licensed mental health professional who is not enrolled in the Program with an active states on the date of service; or

(2) An entity, facility, or another provider that is not a licensed mental health professional.

.09 Payment Procedures.

A.—H. (text unchanged)

I. Psychiatric rehabilitation programs shall identify the mental health professional who referred the individual to psychiatric rehabilitation services by recording the individual practitioner's National Provider Identifier (NPI) number on the claim.

DENNIS SCHRADER
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

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

Notice of Proposed Action

[18-005-P]

The Secretary of Health proposes to amend Regulation **.19** under **COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations**.

Statement of Purpose

The purpose of this action is to implement to the calendar year 2018 HealthChoice MCO's rates.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The HealthChoice CY 2018 MCO rate adjustment is an increase of $54,656,699 above the FY 2018 appropriation or a 1.0 percent rate increase.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	$54,656,699
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	$54,656,699
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. For CY 2018, there is a 1.0 percent rate increase or $54,656,699 increase to the Department's expenses.

D. For CY 2018, there is a 1.0 percent rate increase or $54,656,699 increase to the MCOs revenue.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.19 MCO Reimbursement.

A. (text unchanged)

B. Capitation Rate-Setting Methodology.

(1)—(3) (text unchanged)

(4) Except to the extent of adjustments required by §D of this regulation or by Regulations .19-1—.19-4 of this chapter, the Department shall make payments monthly at the rates specified in the following tables:

[(a)—(d)**]** (proposed for repeal)

(a) Rate Table for Families and Children Effective January 1, 2018 — December 31, 2018

	Age/RAC	*Gender*	*PMPM Baltimore City*	*PMPM Montgomery County*	*PMPM Rest of State*
	Under age 1Birth Weight 1500 grams or less	*Both*	*$9,987.05*	*$8,901.86*	*$9,187.53*
	Under age 1 Birth Weight over 1500 grams	*Both*	*$471.18*	*$419.98*	*$433.46*
	1—5	*Male*	*$204.70*	*$182.45*	*$188.31*
		Female	*$181.00*	*$161.33*	*$166.51*
	6—14	*Male*	*$113.50*	*$101.17*	*$104.42*
		Female	*$109.36*	*$97.47*	*$100.60*
	15—0	*Male*	*$127.07*	*$113.27*	*$116.90*
		Female	*$166.02*	*$147.98*	*$152.73*
	21—44	*Male*	*$239.70*	*$194.36*	*$208.17*
		Female	*$367.45*	*$297.95*	*$319.12*
	45—64	*Male*	*$497.75*	*$403.60*	*$432.28*
		Female	*$575.16*	*$466.37*	*$499.51*
ACG-adjusted cells					
ACG 100, 200, 300, 400, 500, 600, 700, 900, 1000, 1100, 1200, 1300, 1600, 1710, 1711, 1712, 1720, 1721, 1722, 1730, 1731, 1732, 1800, 1900, 2000, 2100, 2200, 2300, 2400, 2500, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3800, 4210, 5100, 5110, 5200 5230, 5310, 5339	*RAC 1F*	*Both*	*$240.89*	*$195.33*	*$209.21*
ACG 800, 1740, 1741, 1742, 1750, 2700, 3600, 1750, 1751, 1752, 2700, 3600, 3700, 3900, 4000, 4100, 4220, 4310, 4410, 4510, 4610, 4710, 4720, 4810, 5340	*RAC 2F*	*Both*	*$392.90*	*$318.59*	*$341.22*
ACG 1400, 1500, 1750, 1761, 1762, 1770, 1771, 1772, 2600, 4320, 4520, 4620, 4820	*RAC 3F*	*Both*	*$517.22*	*$410.39*	*$449.19*
ACG 4330, 4420, 4830, 4910, 4920, 5010, 5020, 5040	*RAC 4F*	*Both*	*$725.53*	*$588.30*	*$630.10*
ACG 4430, 4730, 4930, 5030, 5050	*RAC 5F*	*Both*	*$1,017.64*	*$825.17*	*$883.79*
ACG 4940, 5060	*RAC 6F*	*Both*	*$1,289.01*	*$1,045.21*	*$1,119.46*
ACG 5070	*RAC 7F*	*Both*	*$1,985.36*	*$1,609.85*	*$1,724.22*
ACG 100, 200, 300, 500, 600, 1100, 1600, 2000, 2400, 3400, 5100, 5110, 5200	*RAC 1G*	*Both*	*$90.62*	*$80.78*	*$83.37*
ACG 400, 700, 900, 1000, 1200, 1300, 1710, 1711, 1712, 1800, 1900, 2100, 2200, 2300, 2800, 2900, 3000, 3100, 5310	*RAC 2G*	*Both*	*$116.07*	*$103.46*	*$106.78*
ACG 1720, 1721, 1722, 1731, 1732, 1730, 2500, 3200, 3300, 3500, 3800, 4210, 5230, 5339	*RAC 3G*	*Both*	*$149.48*	*$133.24*	*$137.51*
ACG 800, 1740, 1741, 1742, 1750, 2700, 3600, 1750, 1751, 1752, 2700, 3600, 3700, 3900, 4000, 4100, 4220, 4310, 4410, 4510, 4610, 4710, 4720, 4810, 5340	*RAC 4G*	*Both*	*$206.92*	*$184.33*	*$190.35*
ACG 1400, 1500, 1750, 1761, 1762, 1770, 1771, 1772, 2600, 4320, 4520, 4620, 4820	*RAC 5G*	*Both*	*$324.44*	*$289.19*	*$298.47*
ACG 4330, 4420, 4830, 4910, 4920, 5010, 5020, 5040	*RAC 6G*	*Both*	*$392.02*	*$349.42*	*$360.04*
ACG 4430, 4730, 4930,4940, 5030, 5050, 5060, 5070	*RAC 7G*	*Both*	*$945.69*	*$842.93*	*$869.98*
SOBRA Mothers			*$849.58*	*$688.89*	*$737.83*
Persons with HIV	*ALL*	*Both*	*$652.47*	*$652.47*	*$652.47*

(b) Rate Table for Disabled Individuals Effective January 1, 2018—December 31, 2018

	Age/RAC	*Gender*	*PMPM Baltimore City*	*PMPM Montgomery County*	*PMPM Rest of State*
	Under Age 1	*Both*	*$7,898.31*	*$7,898.31*	*$7,898.31*
	1—5	*Male*	*$1,759.19*	*$1,759.19*	*$1,759.19*
		Female	*$909.25*	*$909.25*	*$909.25*
	6—14	*Male*	*$322.27*	*$322.27*	*$322.27*
		Female	*$410.32*	*$410.32*	*$410.32*
	15—20	*Male*	*$223.20*	*$223.20*	*$223.20*
		Female	*$256.31*	*$256.31*	*$256.31*
	21—44	*Male*	*$689.95*	*$603.17*	*$607.00*
		Female	*$907.12*	*$793.3*	*$798.07*
	45—64	*Male*	*$1,848.47*	*$1,616.00*	*$1,626.26*
	45—64	*Female*	*$1,815.23*	*$1,586.94*	*$1,597.01*
ACG-adjusted cells					
ACG 100, 200, 300, 1100, 1300, 1400, 1500, 1600, 1710, 1711, 1712, 1720, 1721, 1722, 1730, 1731, 1732, 1900, 2400, 2600, 2900, 3400, 5100, 5110, 5200, 5310	*RAC 10*	*Both*	*$304.32*	*$266.05*	*$267.74*
ACG 400, 500, 700, 900, 1000, 1200, 1740, 1741, 1742, 1750, 1751, 1752 1800, 2000, 2100, 2200, 2300, 2500, 2700, 2800, 3000, 3100, 3200, 3300, 3500, 3900, 4000, 4310, 5330	*RAC 11*	*Both*	*$343.20*	*$300.04*	*$301.94*
ACG 600, 1760, 1761, 1762, 3600, 3700, 4100, 4320, 4410, 4710, 4810, 4820	*RAC 12*	*Both*	*$695.13*	*$607.70*	*$611.56*
ACG 3800, 4210, 4220, 4330, 4420, 4720, 4910, 5320	*RAC 13*	*Both*	*$788.52*	*$689.35*	*$693.73*
ACG 800, 4430, 4510, 4610, 5040, 5340	*RAC 14*	*Both*	*$1,066.84*	*$932.67*	*$938.59*
ACG 1770, 1771, 1772, 4520, 4620, 4830, 4920, 5050	*RAC 15*	*Both*	*$1,356.31*	*$1,185.73*	*$1,193.26*
ACG 4730, 4930, 5010	*RAC 16*	*Both*	*$1,404.91*	*$1,228.22*	*$1,236.01*
ACG 4940, 5020, 5060	*RAC 17*	*Both*	*$2,089.06*	*$1,826.33*	*$1,837.93*
ACG 5030, 5070	*RAC 18*	*Both*	*$3,853.42*	*$3,368.79*	*$3,390.18*
Persons with AIDS	*All*	*Both*	*$2,081.63*	*$1,422.67*	*$1,422.67*
Persons with HIV	*All*	*Both*	*$1,973.79*	*$1,973.79*	*$1,973.79*

(c) Rate Table for Supplemental Payments for Delivery/Newborn and Hepatitis C Therapy Effective January 1, 2018—December 31, 2018

	Age	*Gender*	*Baltimore City*	*Montgomery County*	*Rest of State*
Supplemental Payment Cells					
Delivery/Newborn-all births except live birth weight 1,500 grams or less and gestational age of 21 weeks or more	*All*	*Both*	*$16,277.91*	*$12,494.41*	*$13,533.35*
Delivery/Newborn-live birth weight 1,500 grams or less and a gestational age of 21 weeks or more	*All*	*Both*	*$86,874.19*	*$86,874.19*	*$86,874.19*
Delivery/Newborn by same enrollee-subsequent live birth weight 1,500 grams or less with a gestational age less than 21 weeks or does not meet the requirements in §B.(4)(i) of this regulation	*All*	*Both*	*$16,277.91*	*$12,494.41*	*$13,533.35*
Hepatitis C Therapy 98% payment	*All*	*Both*	*$26,312.06*	*$26,312.06*	*$26,312.06*
Hepatitis C 8 week treatment PMPM	*All*	*Both*	*$1,073.96*	*$1,073.96*	*$1,073.96*
Hepatitis C 12 week treatment PMPM	*All*	*Both*	*$1,610.94*	*$1,610.94*	*$1,610.94*

Hepatitis C 24 week treatment PMPM	*All*	*Both*	*$3,221.88*	*$3221.88*	*$3221.88*
Hepatitis C 48 week treatment PMPM	*All*	*Both*	*$6,443.76*	*$6,443.76*	*$6,443.76*
Hepatitis C 12-24 week treatment PMPM	*All*	*Both*	*$1,610.94*	*$1,610.94*	*$1,610.94*
Hepatitis C 12 week retreatment PMPM	*All*	*Both*	*$1,610.94*	*$1,610.94*	*$1,610.94*
Hepatitis C 24 week retreatment PMPM	*All*	*Both*	*$3,221.88*	*$3,221.88*	*$3,221.88*
Hepatitis C 48 week retreatment PMPM	*All*	*Both*	*$6,443.76*	*$6,443.76*	*$6,443.76*
Hepatitis C 12-24 week retreatment PMPM	*All*	*Both*	*$1,610.94*	*$1,610.94*	*$1,610.94*
Hepatitis C SVR Runout	*All*	*Both*	*$536.98*	*$536.98*	*$536.98*

(d) Rate Table for Childless Adult Population Effective January 1, 2018—December 31, 2018

	Age/RAC	*Gender*	*PMPM Baltimore City*	*Montgomery County*	*PMPM Rest of State*
	19—44	*Male*	*$355.45*	*$275.16*	*$316.05*
	19—44	*Female*	*$406.33*	*$314.58*	*$361.30*
	45—64	*Male*	*$933.15*	*$768.90*	*$883.08*
	45—64	*Female*	*$859.44*	*$665.38*	*$764.19*
ACG-adjusted cells					
ACG 100, 200, 300, 400, 500, 600, 700, 900, 1000, 1100, 1200, 1300, 1600, 1710, 1711, 1712, 1720, 1721, 1722, 1730, 1731, 1732, 1800, 1900, 2000, 2100, 2200, 2300, 2400, 2500, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3800, 4210, 5100, 5110, 5200 5230, 5310, 5339	*RAC 1H*	*Both*	*$323.87*	*$250.74*	*$287.97*
ACG 800, 1740, 1741, 1742, 1750, 2700, 3600, 1750, 1751, 1752, 2700, 3600, 3700, 3900, 4000, 4100, 4220, 4310, 4410, 4510, 4610, 4710, 4720, 4810, 5340	*RAC 2H*	*Both*	*$490.76*	*$379.95*	*$436.37*
ACG 1400, 1500, 1750, 1761, 1762, 1770, 1771, 1772, 2600, 4320, 4520, 4620, 4820	*RAC 3H*	*Both*	*$514.21*	*$398.10*	*$457.22*
ACG 4330, 4420, 4830, 4910, 4920, 5010, 5020, 5040	*RAC 4H*	*Both*	*$876.30*	*$678.44*	*$779.18*
ACG 4430, 4730, 4930, 5030, 5050	*RAC 5H*	*Both*	*$1,110.13*	*$1,859.46*	*$987.09*
ACG 4940, 5060	*RAC 6H*	*Both*	*$1,426.39*	*$1,104.32*	*$1,268.31*
ACG 5070	*RAC 7H*	*Both*	*$2,278.39*	*$1,763.94*	*$2,025.88*
HIV	*19-64*	*Both*	*$591.40*	*$591.40*	*$591.41*

(e)—(h) (text unchanged)

(i) An MCO is eligible to receive the subsequent very low birth weight payment in §B(4)(c) of this regulation if the mother:

(i) Had a prior spontaneous preterm delivery;

(ii) Has a current singleton pregnancy;

(iii) Is eligible to receive hydroxyprogesterone caproate;

(iv) Has received the first hydroxyprogesterone caproate injection between 16 weeks gestation and 24 weeks gestation and continued receiving injections until delivery or week 37 gestation; and

(v) Has received at least 2 hydroxyprogesterone caproate injections.

(5) (text unchanged)

C. (text unchanged)

D. Interim Rates Adjustments.

(1) (text unchanged)

(2) The Department shall adjust the payment rates specified in §B(4)(a)—(d) of this regulation to reflect service cost changes that qualify under §D(3) of this regulation and result from:

(a)—(b) (text unchanged)

[(c) Effective January 1, 2017, an increase or decrease in the inpatient hospital per capita as calculated by the multiplication of:

(i) The change in the restated unit cost provided annually by the Health Service Cost Review Commission (HSCRC) as compared to the data originally provided; and

(ii) The change in the restated recommended utilization, adjusted for case mix, position of the Department's rate certifying actuary as compared to the originally provided utilization position; or

(d) An increase or decrease in the outpatient hospital per capita as calculated by the multiplication of:

(i) The change in the restated unit cost provided annually by the HSCRC as compared to the data originally provided; and

(ii) The change in the restated recommended utilization, adjusted for case mix, position of the Department's rate certifying actuary as compared to the originally provided utilization position; or

(e) Other changes or circumstances the Department determines are necessary to ensure the rates are actuarially sound.**]**

(c) An increase or decrease in the inpatient charge per case as calculated by the change in the restated unit cost provided annually by the HSCRC as compared to the data originally provided; or

(d) An increase or decrease in the outpatient charge per visit as calculated by the change in the restated unit cost provided annually by the HSCRC as compared to the data originally provided.

(3)—(6) (text unchanged)

DENNIS SCHRADER
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

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

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

Notice of Proposed Action

[17-323-P]

The Secretary of Health proposes to repeal existing Regulations **.01** and **.02**, adopt new Regulations **.01** and **.17**, amend and recodify existing Regulations **.03—.14** to be Regulations **.02—.13**, and recodify existing Regulations **.15—.17** to be Regulations **.14—.16** under **COMAR 10.09.69 Maryland Medicaid Managed Care Program: Rare and Expensive Case Management**.

Statement of Purpose

The purpose of this action is to:

(1) Update language to reflect rates for REM services that went into effect in 2011;

(2) Add definitions for level of nursing services (CNA-CMT and HHA-CMT) to coincide with COMAR 10.09.53: Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old; and

(3) Clarify the specific conditions for provider participation of Shift Private Duty Nursing/CNA/CNA-CMT/HHA/HHA-CMT providers to align with COMAR 10.09.53: Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) "Activities of daily living" means tasks or activities that include but are not limited to bathing, feeding, toileting, dressing, and ambulation.

(2) "Business day" means any day except Saturday, Sunday, or a holiday on which State offices are closed.

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

(4) "Case management" means assessing, planning, coordinating, and monitoring the delivery of medically necessary health-related services.

(5) "Case management provider" means the Department's designee, or a subcontractor of the designee, which provides case management to participants assigned to it by the Department.

(6) "Case manager" means, an individual who is:

(a) A social worker with active and nationally recognized certification in case management or an RN;

(b) Employed by the Department's designee; and

(c) Assigned by the Department's designee to manage the care of some or all of the participants.

(7) "Cause" means a significant change in medical condition such that it is no longer medically efficacious for the individual to remain in the MCO as determined by the Department.

(8) "Certified medication technician (CMT)" means an individual who:

(a) Completes a 20-hour course in medication administration approved by the Maryland Board of Nursing;

(b) Is certified by the Maryland Board of Nursing under COMAR 10.39.04; and

(c) Performs medication administration tasks delegated by a nurse in accordance with COMAR 10.27.11.

(9) "Certified nursing assistant (CNA)" means an individual who:

(a) Is certified by the Maryland Board of Nursing under COMAR 10.39.05; and

(b) Routinely performs nursing tasks delegated by a nurse in accordance with COMAR 10.27.11.

(10) "Certified nursing assistant certified as a CMT (CNA-CMT)" means an individual who:

(a) Is certified by the Maryland Board of Nursing under COMAR 10.39.05 and 10.39.04;

(b) Completes a 20-hour course in medication administration approved by the Maryland Board of Nursing; and

(c) Routinely performs nursing tasks including medication administration tasks delegated by a nurse in accordance with COMAR 10.27.11.

(11) "Chiropractor" means an individual who is licensed by the Maryland State Board of Chiropractic Examiners to practice chiropractic in Maryland.

(12) "Delegated nursing services" means nursing services provided to a participant by a CNA, CNA-CMT, HHA, or HHA-CMT under the supervision of an RN in accordance with COMAR 10.27.11.

(13) "Dental service provider" means an individual who is licensed and legally authorized to practice dentistry in the state in which the service is provided.

(14) "Department" means the Department of Health, as defined in COMAR 10.09.36.01, or its authorized agents acting on behalf of the Department.

(15) "Dietitian-nutritionist" means an individual who is licensed as a dietitian-nutritionist by the Maryland State Board of Dietetic Practice to practice dietetics in Maryland.

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

(17) "EPSDT-certified provider" means a physician, physician assistant or nurse practitioner who is certified by the Department's EPSDT program to provide well-child services according to the Department's periodicity schedule and program standards to enrollees younger than 21 years old.

(18) "EPSDT periodicity schedule" means the list approved by the Department of required or recommended preventive health care services for children and adolescents.

(19) "EPSDT services" means:

(a) Screening services provided by an EPSDT-certified provider that are required or recommended on the EPSDT periodicity schedule; and

(b) Health care services performed to diagnose, treat, or refer problems or conditions discovered during the comprehensive well-child service.

(20) "Evaluation" means a determination of the health status of a patient in a patient's home or any other appropriate setting by a licensed professional for the purpose of designing an individual plan of care, which incorporates the modalities of treatment that will promote optimal functional ability and recuperation.

(21) "Family member" means an adult who:

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

(b) Is not paid to provide the care.

(22) "HealthChoice" means Maryland Medicaid's Statewide mandatory managed care program as defined in COMAR 10.09.65.

(23) "Home" has the meaning stated in COMAR 10.09.53.01.

(24) "Home health agency" means an agency licensed by the Department in accordance with COMAR 10.07.10.

(25) "Home health aide (HHA)" means an individual who meets all the conditions of participation specified in:

(a) 42 CFR §484.36; and

(b) Health Occupations Article, Title 8, Annotated Code of Maryland.

(26) "Home health aide certified as a CMT (HHA-CMT)" means an individual who:

(a) Meets all the conditions of participation specified in 42 CFR §484.36 and Health Occupations Article, Title 8, Annotated Code of Maryland; and

(b) Completes a 20-hour course in medication administration approved by the Maryland Board of Nursing.

(27) "Hospital" means an institution licensed by and providing services in accordance with Health-General Article, §19-301, Annotated Code of Maryland.

(28) "Individualized education program (IEP)" means a written description of special education and related services developed by an IEP team to be implemented to meet the individual needs of a child.

(29) "Individualized family service plan (IFSP)" means a written plan for providing early intervention and other services to an eligible child and the child's family developed by an IFSP team.

(30) "Interdisciplinary team" means the group comprised of the case manager and relevant service providers to develop the case management plan under the overall direction and coordination of the case manager, in consultation with the participant and, when applicable, the participant's family.

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

(32) "Licensed practical nurse (LPN)" means an individual licensed to practice licensed practical nursing as defined in Health Occupations Article, §8-301, Annotated Code of Maryland.

(33) "Managed care organization (MCO)" has the meaning stated in Health-General Article, §15-101, Annotated Code of Maryland.

(34) "Medical Assistance" means the program administered by the State under Title XIX of the Social Security Act which provides comprehensive medical and other health-related care for categorically eligible and medically needy individuals.

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

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

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

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

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

(36) "Medicare" means the federal program that provides benefits to the aged and disabled under Title XVIII of the Social Security Act, 42 U.S.C. §1395 et seq.

(37) "Nurse" means an individual who is licensed to practice as a registered nurse (RN) or a licensed practical nurse (LPN) in the jurisdiction in which services are provided.

(38) "Nurse practitioner" means an individual who is licensed and certified to practice as a nurse practitioner in the jurisdiction in which services are provided.

(39) "Nursing facility" has the meaning stated in COMAR 10.09.10.01B.

(40) "Nutritional counseling" means the assessment of the participant's nutritional status and education about improving their nutritional status provided by a licensed dietitian-nutritionist.

(41) "Nutritional supplements" means enteral feeding which is medically indicated as either the sole source of nutrition or a supplement that enhances the physical well-being of the participant.

(42) "Occupational therapist" means an individual licensed by the Maryland State Board of Occupational Therapy Practice to practice occupational therapy in Maryland.

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

(44) "Physician" means an individual who is authorized under the Maryland Medical Practice Act to practice medicine in this State as stated in Health-General Article, §1-101, Annotated Code of Maryland.

(45) "Physician assistant" means an individual who is licensed to practice medicine with physician supervision as stated in the Health Occupations Article, §§15-301(d) and (e) and §§15-302, Annotated Code of Maryland.

(46) "Plan of care" means the document which governs a participant's care management which includes the:

(a) Case management assessment report;

(b) Interdisciplinary plan of care; and

(c) Case management plan.

(47) "Preauthorization" means the approval required from the Department or its designee before specific services may be rendered.

(48) "Primary care provider (PCP)" means a physician, physician assistant, or nurse practitioner who is the primary coordinator of care for the participant, and whose responsibility it is to provide accessible, continuous, comprehensive, and coordinated health care services covering the full range of benefits required by the Maryland Medicaid Managed Care Program, as specified in COMAR 10.09.67.

(49) "Private duty nursing" means skilled nursing services for participants, who require more individual and continuous care than is available under the home health program, which are provided by a registered nurse (RN) or a licensed practical nurse (LPN), in a participant's home or another setting when normal life activities take the participant outside his or her home.

(50) "Program", unless the context indicates otherwise, has the meaning stated in COMAR 10.09.36.01B.

(51) "Progress note" means a signed and dated written notation by the RN, LPN, CNA, CNA-CMT, HHA, or HHA-CMT, which:

(a) Summarizes facts about the care given and the participant's response during a given period of time;

(b) Specifically addresses the established goals of treatment;

(c) Is consistent with the participant's plan of care; and

(d) Is written during the course of care.

(52) "Provider" means an individual, agency, or facility, which is enrolled in the Program through an agreement with the Department, and has been identified as a Program provider by the issuance of a provider number.

(53) "Rare and expensive case management (REM)" means a Maryland Medical Assistance program that provides case management services and optional services to eligible individuals with specific rare and expensive conditions.

(54) "Rare and expensive condition" means a medical diagnosis or condition identified in Regulation .16 of this chapter.

(55) "Registered nurse (RN)" means an individual licensed to practice registered nursing as defined in Health Occupations Article, §8-301, Annotated Code of Maryland.

(56) "REM optional services" means the services listed in Regulations .09 and .10 of this chapter, which meet the general requirements under Regulation .08 of this chapter.

(57) "Residential service agency" means an agency licensed by the Department in accordance with COMAR 10.07.05.

(58) "Residential treatment center" means any institution which falls within the jurisdiction of Health-General Article, §19-308, Annotated Code of Maryland, and is licensed as required by COMAR 10.07.04 or other applicable standards established by the state in which the service is provided.

(59) "Social worker" means an individual who is licensed by the Maryland State Board of Social Work Examiners to practice social work in Maryland.

(60) "Speech-language pathologist" means an individual who is licensed by the Maryland Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists to practice speech-language pathology in Maryland.

[.03] *.02 REM* Eligibility.

A. An individual is eligible to participate in the REM program if the individual:

(1) Is eligible for Maryland Medicaid Managed Care *as specified in COMAR 10.09.63.01*;

(2) Has one or more of the diagnoses specified in Regulation **[**.17**]** *.16* of this chapter; and

(3) (text unchanged)

B. (text unchanged)

[.04] *.03 Participant* Enrollment and Disenrollment.

[A. Anyone may refer an individual into the REM program including, but not limited to a:

(1) Family member;

(2) Physician;

(3) Discharge planner;

(4) Hospital;

(5) Clinic;

(6) Social worker; and

(7) Managed care organization (MCO).**]**

[B.**]** *A.* The Department shall enroll an individual determined eligible in the REM program when:

(1) All pertinent documentation regarding needed medical services is received **[**and**]**, reviewed, *and approved*;

(2) (text unchanged)

(3) **[**Service coordination is complete when the] *The* individual is being discharged from an institution or transitioning from an MCO *and service coordination is complete*.

[C.**]** *B.* (text unchanged)

[D.**]** *C.* An individual shall be enrolled in or auto-assigned into an MCO as specified in COMAR 10.09.63, not later than **[**100**]** *60* days from the date **[**an**]** *the* individual becomes ineligible for REM, as a result of changes in the diagnosis or age group criteria specified in Regulation **[**.17**]** *.16* of this chapter, except when the individual was allowed to remain in REM in accordance with **[**§I**]** *§H* of this regulation.

[E.**]** *D.* A REM participant may elect to disenroll from REM and enroll in an MCO by notifying the Department of that decision except when the individual was allowed to remain in REM in accordance with **[**§I**]** *§H* of this regulation.

[F.**]** *E.* (text unchanged)

[G.**]** *F.* The Department shall allow an individual who, immediately before enrollment in REM, was receiving medical services from a specialty clinic or other setting to continue to receive services in that setting on enrollment in the REM program when the provider is willing to participate as a **[**Medicaid**]** *Medical Assistance* fee-for-service provider.

[H.**]** *G.* (text unchanged)

[I.**]** *H.* The Department shall disenroll from the REM program a participant who no longer meets the conditions specified in Regulation **[**.03**]** *.02* of this chapter unless:

(1) The participant does not meet the condition under Regulation **[**.03A(1)**]** *.02A(1) of this chapter* because the participant becomes eligible for Medicare; and

(2) At the time the participant became eligible for Medicare the participant was approved for and was receiving private duty nursing **[**or home health aide**]**, *CNA, CNA-CMT, HHA, or HHA-CMT* services under the REM program.

[J.**]** *I.* An individual disenrolled from REM by the Department who maintains HealthChoice eligibility is subject to the MCO enrollment provisions specified in COMAR 10.09.63 except when the individual was allowed to remain in REM in accordance with **[**§I**]** *§H* of this regulation.

[.05] *.04* Benefits.

A REM participant is eligible for the following:

A. Fee-for-service [Medicaid] *Medical Assistance* benefits available to a [Program] *Medical Assistance* [recipient] *participant* not enrolled in an MCO;

B. Services described in Regulations [.10] *.09* and [.11] *.10* of this chapter when determined medically necessary by the Department;

C. A case management assessment performed by a REM case manager who shall:

(1) Gather all relevant information [needed] to determine the participant's condition and needs including the participant's medical records;

(2)—(3) (text unchanged)

D. Case management services performed by a REM case manager who shall:

(1) When necessary, assist the REM participant, offering the participant a choice, if possible, in selecting and obtaining [an appropriate primary care provider] *a PCP*, who may be a specialist [as appropriate] to the *participant's* condition, giving preference to any pre-established relationships between the participant and the *participant's* [primary care provider] *PCP*;

(2) Develop a plan of care in consultation with the participant, the participant's family members, the [primary care provider] *PCP*, and other providers rendering care[;] *that:*

(a) Includes the participant's health status and needs for medical, health-related, housing, and social services including, but not limited to:

(i) All pertinent diagnoses including the REM qualifying diagnosis;

(ii) Type, frequency, and duration of services;

(iii) Treatment goals for each type of service;

(iv) Medical equipment and supplies;

(v) Medication;

(vi) Social support structure;

(vii) Current service providers;

(viii) Assigned level of care;

(ix) Nutritional status;

(x) Education or vocational information;

(xi) Current living arrangement; and

(xii) Emergency plan, if appropriate; and

(b) Is developed in consultation with the interdisciplinary team;

(3)—(4) (text unchanged)

(5) As necessary, initiate and implement modifications to the plan of care and communicate these changes to the participant, parents or [guardians] *caregivers*, and pertinent health care providers;

(6) Monitor a participant's receipt of [Early and Periodic Screening, Diagnosis and Treatment] *EPSDT* services as specified in COMAR 10.09.67; and

(7) Assist the participant with the coordination of school health-related services such as the [local education plan, the Individualized Education Program (IEP),] *IEP* or the [individual family service plan] *IFSP* as described in COMAR 10.09.50.

[.06] *.05* Requirements for Provider [Licensing or Certification] *Qualification*.

A. A case manager providing case management [service] under this chapter shall be [a]:

(1) [Licensed registered nurse who is qualified to practice in the State] *An RN*; or

(2) [Licensed] *A* social worker [who is qualified to practice in the State].

B. The following professionals providing [fee-for-service or optional] services under this chapter to REM participants shall be licensed, [or] certified, *or otherwise legally authorized* to practice in the jurisdiction in which the services are rendered:

(1) (text unchanged)

(2) Physician Assistants;

(3) Nurse Practitioners;

[(2) Registered nurses] *(4) RNs* and [licensed practical nurses] *LPNs*;

[(3)] *(5)*—[(4)] *(6)* (text unchanged)

[(5)] *(7)* [Nutritionists] *Dietitian-Nutritionists*;

[(6)] *(8)*—[(7)] *(9)* (text unchanged)

[(8)] *(10)* Speech-*language* [therapists] *pathologists*; and

[(9)] *(11)* [Certified nursing assistants] *CNAs* [and], [home health aides] *HHAs, CNA-CMTs, and HHA-CMTs.*

C. [An agency providing] *A provider rendering* services pursuant to this chapter shall meet all applicable licensure and certification requirements of the jurisdiction in which the [agency] *provider* is providing services.

D. A provider rendering services to REM participants, pursuant to this chapter, may not have current sanctions or current disciplinary actions imposed by:

(1) The jurisdictional licensing or certification authority;

(2) The Medicare Program;

(3) The Program; or

(4) Other federally funded healthcare programs.

[.07] *.06* Conditions for Participation—General Requirements.

[An individual, agency, or] *A* provider rendering services [or medical care] pursuant to this chapter shall:

A. (text unchanged)

B. Meet the [licensure and certification] *provider qualification* requirements specified in Regulation [.06] *.05* of this chapter for its provider type;

C.—E. (text unchanged)

F. Provide services to REM program [beneficiaries] *participants* in a manner consistent with the REM [beneficiary's] *participant's* plan of care; *and*

[G. Notify the Department in writing within 10 business days when a service requested by a participant is deemed not medically necessary;

H. Agree not to suspend, terminate, increase, or reduce services for participants without seeking authorization from the Department;

I. Comply with the requirements in the Department's quality plan for this Program;]

[J.] *G.* When the Department determines it is necessary, participate in the interdisciplinary team meetings for the purpose of:

(1) (text unchanged)

(2) Accessing a specific service[;].

[K. Provide and bill the Program for only those services covered under this chapter included in the case manager's plan of care, or treatment plan developed by the physician, or both; and

L. Verify the eligibility of participants by calling the Program's Eligibility Verification System (EVS).]

[.08] *.07* Specific Conditions for Provider Participation.

A. Case Management Providers. To participate in the Program, a case management provider shall meet the conditions set forth in Regulations .05 and .06 of this chapter.

[A.] *B.* Chiropractic Service Providers. To participate in the Program, the chiropractic service provider shall:

(1) Meet the [conditions]*:*

(a) Conditions set forth in Regulation [.07] *.06* of this chapter; *and*

(b) Requirements for chiropractic providers specified in COMAR 10.43.04;

(2) Develop a goal-directed treatment plan that is based on an evaluation conducted during the initial assessment[, unless the

Department determines a more frequent review period is appropriate**]**, which **[**includes but is not limited to**]** *requires*:

(a) (text unchanged)

(b) A review and update of the treatment plan every 90 days; *and*

[(3) Develop a written justification for chiropractic treatment on request by the Department which shall include but is not limited to the treatment's objective;

(4) Participate in interdisciplinary team meetings when requested by the Department; and**]**

[(5)**]** *(3)* Render services in accordance with *orders written by* a **[**physician's order**]** *physician, physician assistant, or nurse practitioner*.

[B.**]** *C.* Dental Service Providers. To participate in the Program, the dental service provider shall meet the:

(1) Conditions set forth in Regulation **[**.07**]** *.06* of this chapter; and

(2) (text unchanged)

[C.**]** *D.* Nutritional Supplement Providers. To participate as a provider of nutritional supplements, a provider shall meet the:

(1) Conditions of participation as set forth in Regulation **[**.07**]** *.06* of this chapter; and

(2) (text unchanged)

[D.**]** *E.* **[**Shift Private Duty Nursing/Certified Nursing Assistant/Home Health Aide Providers.**]** *Shift Private Duty Nursing/CNA/CNA-CMT/HHA/HHA-CMT Providers.* To participate as a provider agency for shift private duty nursing, **[**certified nursing assistant services, or home health aide**]** *CNA, CNA-CMT, HHA, or HHA-CMT services*, a provider shall:

(1) Meet the conditions set forth in Regulation **[**.07**]** *.06* of this chapter;

(2) Meet all requirements of **[**condition**]** *conditions* for participation set forth in **[**:**]** *COMAR 10.09.53.03;*

[(a) COMAR 10.09.53.03;

(b) COMAR 10.09.27.03; or

(c) COMAR 10.09.04;**]**

(3) Participate in interdisciplinary team meetings, when requested by the Department *or its designee*;

(4) **[**In conjunction with the REM case manager, develop**]** *Develop* a goal-directed written nursing care plan that is based on an evaluation conducted during the initial assessment, **[**unless the Department determines a more frequent medical review to determine or re-examine treatment goals is appropriate, in the following manner**]**, *which requires*:

(a)—(b) (text unchanged)

(5) (text unchanged)

(6) Ensure a nurse's, **[**a certified nursing assistant's or a home health aide's**]** *CNA's, CNA-CMT's, HHA's, or HHA-CMT's* shift to be not more than *a total of 60 hours per week or* 16 consecutive hours and that the individual is off 8 or more hours before starting another shift unless otherwise authorized by the Department;

(7) (text unchanged)

(8) **[**Either be**]** *Be licensed as* a:

(a) Residential service agency **[**licensed**]** in accordance with COMAR 10.07.05; or

(b) Home health agency **[**licensed**]** in accordance with COMAR 10.07.10 which meets the conditions of participation specified by the Medicare program in 42 CFR *§*484.36.

[E.**]** *F.* Occupational Therapy Providers. To participate in the Program as a provider of occupational therapy services, a provider shall:

(1) Meet the conditions set forth in Regulation **[**.07**]** *.06* of this chapter;

(2) (text unchanged)

(3) Be an agency or clinic which employs **[**licensed**]** occupational therapists or be a Program provider of home health services under COMAR 10.09.04; and

(4) Develop a goal-directed written treatment plan **[**in conjunction with the REM case manager**]** that is based on an evaluation conducted during the initial assessment**[**, unless the Department determines a more frequent review is appropriate, in the following manner**]** *which requires*:

(a)—(b) (text unchanged)

[F.**]** *G.* **[**Speech and Language**]** *Speech-Language Pathology* Providers. To participate in the Program, a **[**speech and language**]** *speech-language pathology* provider shall:

(1) Meet the conditions set forth in Regulation **[**.07**]** *.06* of this chapter;

(2) Be a self-employed **[**speech therapist**]** *speech-language pathologist* **[**licensed**]** according to COMAR 10.41.03 or be a Program provider of home health services under COMAR 10.09.04; **[**and**]**

(3) Be an agency or clinic that employs speech-language pathologists; and

[(3)**]** *(4)* Develop a goal-directed written treatment plan **[**in conjunction with the REM case manager**]** that is based on an initial assessment **[**, unless the Department determines a more frequent review period is appropriate, in the following manner and includes**]**, *which requires*:

(a)—(b) (text unchanged)

[.09] *.08* Covered Services — General Requirements.

For participants in the REM program, the Program covers and shall reimburse for services specified in Regulations **[**.10**]** *.09* and **[**.11**]** *.10* of this chapter when these services are:

A. (text unchanged)

B. **[**Physician prescribed;**]** *Prescribed by a:*

(1) Physician;

(2) Physician assistant; or

(3) Nurse practitioner;

C.—D. (text unchanged)

E. Rendered in accordance with the treatment plan or physician's, *physician assistant's, or nurse practitioner's* order, or both; and

F. Delivered by an enrolled **[**Medicaid**]** *Medical Assistance* provider.

[.10] *.09* Covered [Optional] Services.

A. Chiropractic services are covered for REM participants when:

(1) (text unchanged)

(2) Services are provided by a **[**licensed**]** physician or **[**licensed**]** chiropractor;

(3) The qualifying REM diagnosis or related illness shows **[**a**]** deterioration or **[**unrelieved**]** worsening symptoms and other traditional treatments have been ineffective;

(4)—(5) (text unchanged)

B. (text unchanged)

C. Nutritional counseling services are covered when services are provided:

[(1) By a licensed nutritionist or dietitian; and**]**

[(2)**]** *(1)* To a REM participant who is 21 years old or older**[**.**]***; and*

(2) By a dietitian-nutritionist.

D. (text unchanged)

E. The Department shall cover a physician's, *physician assistant's, or nurse practitioner's* participation at interdisciplinary team meetings when the case manager, in conjunction with the team or specific team members, convenes the team meeting for the purpose of developing or reviewing the REM participant's plan of care to ensure continuity of care or access to a specific service.

F. Occupational therapy services are covered when **[**the**]** services *are provided*:

[(1) Require the judgment, knowledge, and skills of a licensed occupational therapist;

(2) Are specified in the plan of care developed by the REM case manager;**]**

[(3)**]** *(1)* **[**Are provided to**]** *To* a REM participant who is 21 years old or older; **[**and**]**

(2) By an occupational therapist; and

[(4)**]** *(3)* **[**Are provided in**]** *In* accordance with COMAR 10.46.01 and 10.46.02.

G. **[**Speech, Hearing, and Language Services. Speech, hearing, and language**]** *Speech-language pathology* services include only those services that *are provided*:

[(1) Require the judgment, knowledge, and skills of a licensed speech, hearing, or language pathologist;**]**

[(2)**]** *(1)* **[**Are provided to**]** *To* a REM participant who is 21 years old or older;

(2) By a speech-language pathologist; and

[(3) Are specified in the treatment plan; and**]**

[(4)**]** *(3)* **[**Are provided in**]** *In* accordance with COMAR 10.41.02 and 10.41.03.

[.11] .10 Covered Optional Services —Private Duty Nursing, Certified Nursing Assistant, *Certified Nursing Assistant Certified as a Certified Medication Technician,* [and] Home Health Aide *and Home Health Aide Certified as a Certified Medication Technician*.

A. The Program shall cover shift nursing services provided by **[**a licensed registered nurse or a licensed practical nurse**]** *an RN or LPN* when:

[(1) The complexity of the service or the condition of a participant requires the judgment, knowledge, and skills of a licensed nurse for a shift of 4 or more continuous hours;**]**

(1) The services are more individualized and continuous than what is available under the home health program;

(2)—(5) (text unchanged)

(6) Sufficient documentation concerning the services provided is maintained by the **[**registered nurse**]** *RN* or **[**licensed practical nurse**]** *LPN* including:

(a) (text unchanged)

(b) Signed and dated progress notes which are reviewed monthly by the **[**nurse**]** *RN* supervisor;

(7) The nurse's shift is limited to not more than *a total of 60 hours per week or* 16 consecutive hours and the nurse is off 8 or more hours before starting another shift *unless otherwise authorized by the Department*;

(8) Services are rendered by **[**a licensed registered**]** *an RN* or **[**practical nurse**]** *an LPN* who is certified in cardiopulmonary resuscitation and the certification is renewed every 2 years;

(9) (text unchanged)

(10) Monthly supervisory visits of **[**a licensed practical nurse**]** *an RN or an LPN* are **[**conducted and documented by a registered nurse.**]***:*

(a) Conducted and documented by an RN supervisor; and

(b) Based on acceptable standards of practice.

B. The Program shall cover services provided by a **[**certified nursing assistant**]** *CNA or CNA-CMT* when:

(1) The **[**certified nursing assistant**]** *CNA or CNA-CMT* is certified by the Maryland Board of Nursing and meets all the requirements to render services pursuant to Health Occupations Article, Title 8, Annotated Code of Maryland;

[(2) The complexity of the service or the condition of a participant requires the judgment, knowledge, and skills of a certified nursing assistant for a shift of 4 or more continuous hours as specified in COMAR 10.09.27;**]**

(2) The CNA-CMT has completed the training and has been certified by the Maryland Board of Nursing as a CMT;

(3) Services are of a scope that is more individual and continuous than what is available under the home health program;

[(3)**]** *(4)* The services provided include but are not limited to:

(a) (text unchanged)

(b) Other health care services properly delegated by **[**a licensed nurse**]** *an RN or an LPN* pursuant to Health Occupations Article, Title 8, Annotated Code of Maryland;

[(4)**]** *(5)* Services are rendered by a **[**certified nursing assistant**]** *CNA or CNA-CMT* who is certified in cardiopulmonary resuscitation and the certification is renewed every 2 years;

[(5)**]** *(6)* The **[**certified nursing assistant's**]** *CNA's or CNA-CMT's* shift is limited to not more than *a total of 60 hours per week or* 16 consecutive hours and the **[**certified nursing assistant**]** *CNA or CNA-CMT* has 8 hours or more off before starting another shift *unless otherwise authorized by the Department*;

[(6)**]** *(7)* Sufficient documentation concerning the services provided is maintained by the **[**certified nursing assistant**]** *CNA or CNA-CMT* including:

(a) (text unchanged)

(b) Signed and dated progress notes which are reviewed every 2 weeks by the **[**nurse**]** *RN* supervisor;

[(7)**]** *(8)* Supervisory visits are conducted **[**every 2 weeks**]** and documented *every 2 weeks* by **[**a registered nurse**]** *an RN*;

[(8)**]** *(9)* The services are included in the REM participant's plan of care developed by the case manager; and

[(9)**]** *(10)* Services are preauthorized by the Department.

C. The Program shall cover services provided by a **[**home health aide**]** *HHA or HHA-CMT* when:

[(1) The complexity of the service or the condition of a participant requires the judgment, knowledge, and skills of a home health aide for a shift of 4 or more continuous hours as specified in COMAR 10.09.27;**]**

[(2)**]** *(1)* Services are provided by an unlicensed **[**person**]** *individual* who meets all the conditions of participation specified by the Medicare program in 42 CFR §484.36 and Health Occupations Article, Title 8, Annotated Code of Maryland;

(2) The HHA-CMT has completed the training and has been certified by the Maryland Board of Nursing as a CMT;

(3) Services are more individualized and continuous than what is available under the home health program;

[(3)**]** *(4)* The services provided include but are not limited to:

(a) (text unchanged)

(b) Other health care services properly delegated by **[**a licensed nurse**]** *an RN or LPN* pursuant to Health Occupations Article, Title 8, Annotated Code of Maryland;

[(4)**]** *(5)* Services are rendered by a **[**home health aide**]** *HHA or HHA-CMT* who is certified in cardiopulmonary resuscitation and the certification is renewed every 2 years;

[(5)**]** *(6)* The **[**home health aide's**]** *HHA's or HHA-CMT's* shift is limited to not more than *a total of 60 hours per week or* 16 consecutive hours and the **[**home health aide**]** *HHA or HHA-CMT* has 8 hours or more off before starting another shift *unless otherwise authorized by the Department*;

[(6)**]** *(7)* Sufficient documentation is maintained by the **[**home health aide**]** *HHA or HHA-CMT* including:

(a) (text unchanged)

(b) Signed and dated progress notes which are reviewed every 2 weeks by the **[**nurse**]** *RN* supervisor;

[(7)**]** *(8)* Supervisory visits are conducted *and documented* every 2 weeks **[**and documented**]** by **[**a registered nurse**]** *an RN*;

[(8)**]** *(9)* The services are included in the REM participant's plan of care developed by the case manager; and

[(9)**]** *(10)* Services are preauthorized by the Department.

[.12] .*11* Limitations.

A. The Department shall pay for services specified in this chapter delivered to a REM participant only if the **[**service has**]** *services have* been **[**recommended by the participant's case manager,**]** ordered by the participant's physician *or nurse practitioner*, and preauthorized, when necessary, by the Department *or its designee*.

B. (text unchanged)

C. The REM program does not cover the following:

(1) Shift private duty nursing, **[**certified nursing assistant**]** *CNA or CNA-CMT*, or **[**home health aide**]** *HHA or HHA-CMT* services rendered by a nurse, **[**certified nursing assistant**]** *CNA*, **[**or home health aide**]** *HHA, CNA-CMT, or HHA-CMT* who is a member of the participant's immediate family or who ordinarily resides with the participant;

(2) (text unchanged)

(3) Services not supervised by **[**a registered nurse**]** *an RN* when delivered by the following:

(a) **[**A licensed practical nurse**]** *An RN or an LPN*;

(b) A **[**certified nursing assistant; or**]** *CNA;*

(c) **[**A home health aide**]** *An HHA*;

(d) A CNA-CMT; or

(e) An HHA-CMT.

(4) REM optional services not preauthorized as required by the Department *or its designee*;

(5) REM optional services not prescribed by the participant's physician, *physician assistant, or nurse practitioner*;

(6) (text unchanged)

[(7) Services not included in the REM case manager's plan of care;**]**

[(8)**]** *(7)* Services provided for the convenience or preference of the participant or the primary caregiver rather than required by the participant's medical condition;

[(9)**]** *(8)* Speech, **[**hearing,**]** language, or occupational therapy services rendered **[**on a group basis or**]** in a classroom setting; and

[(10) Direct payment for nursing, home health aide, or certified nursing assistant supervisory visits by the licensed nurse supervisor as payment is included in the rate set for the direct care supervised.**]**

(9) Shift private duty nursing, CNA, CNA-CMT, HHA, or HHA-CMT services ordered by a physician assistant.

[.13] .*12* Preauthorization Requirements.

[A. The Department or its designee shall preauthorize all services covered in Regulations.10 and .11 of this chapter with the exception of initial assessments unless otherwise specified.**]**

A. Except for initial assessments unless otherwise specified, preauthorization by the Department or its designee is required for all services under Regulation .10 of this chapter.

B. The Department *or its designee* **[**shall issue preauthorization**]** *may preauthorize services* when the Department:

(1)—(2) (text unchanged)

C. Authorization of services shall be rescinded by the Department *or its designee* when:

(1) The participant is admitted to a hospital, residential treatment **[**facility**]** *center*, **[**institution,**]** nursing facility, or **[**intermediate care facility for individuals with intellectual disabilities or **[**persons**]** *individuals* with related conditions (ICF/IID) or addiction**]** *ICF/IID*;

(2)—(4) (text unchanged)

[.14] .*13* Payment Procedures — Request for Payment.

A.—B. (text unchanged)

C. The Department shall pay for covered services at the lower of:

(1)—(2) (text unchanged)

(3) Any fee schedule developed for reimbursement of the same service provided under **[**Medicaid**]** *Medical Assistance*.

[D. Payment for all services covered under this chapter are reimbursed on an all-inclusive basis.**]**

[E.**]** *D.* Effective July 1, **[**2009**]** *2011*, the Department shall pay **[**$406**]** *$388.55* for *a* case management assessment, as described in Regulation **[**.05C**]** *.04C* of this chapter.

[F.**]** *E.* Effective July 1, **[**2009**]** *2011*, the Department shall make payments monthly for case management services at one of the rates specified below:

(1) Level of Care 1: **[**$302**]** *$286.90*;

(2) Level of Care 2: **[**$180**]** *$171*; or

(3) Level of Care 3: **[**$95**]** *$90.25*.

[G.**]** *F.* The rates found in **[**§F**]** *§E* of this regulation are the monthly rates paid by the Department for **[**an individual**]** *a participant* receiving case management as follows:

(1) Level of Care 1 is intensive level of case management, assessment, and coordination of services for **[**an individual**]** *a participant* who:

(a)—(d) (text unchanged)

(2) Level of Care 2 is case management to **[**an individual**]** *a participant* who has a history of exacerbations of medical issues requiring services on an ongoing basis to attain stable service or treatment plans; and

(3) Level of Care 3 is case management that is required on an ongoing basis to monitor a **[**recipient's**]** *participant's* stability and treatment plans.

.17 Appeals Procedures.

Appeal procedures are as set forth in COMAR 10.09.36.09.

DENNIS SCHRADER
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.70 Maryland Medicaid Managed Care Program: Non-Capitated Covered Services

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

Notice of Proposed Action

[18-008-P]

The Secretary of Health proposes to amend Regulation **.02** under **COMAR 10.09.70 Maryland Medicaid Managed Care Program: Non-Capitated Covered Services**.

Statement of Purpose

The purpose of this action is to:

(1) Update the regulations to include the current procedure codes for buprenorphine;

(2) Clarify that in-office drug testing laboratory services billed by physicians are carved out; and

(3) Update the list of carved out diagnoses.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.02 Behavioral Health Non-Capitated Covered Services.

A. An MCO is not responsible for reimbursing for the following substance use disorder services, regardless of diagnosis:

(1) Services delivered by a community-based provider as described in COMAR 10.09.80 with the following procedure codes:

H0001—J8499	(text unchanged)
J0571	*Buprenorphine, oral, 1 mg*
J0572	*Buprenorphine/naloxone, oral, less than or equal to 3 mg of buprenorphine*
J0573	*Buprenorphine/naloxone, oral, greater than 3 mg, but less than or equal to 6 mg buprenorphine*
J0574	*Buprenorphine/naloxone, oral, greater than 6 mg, but less than or equal to 10 mg buprenorphine*

(2) (text unchanged)

B.—D. (text unchanged)

E. An MCO is not responsible for reimbursing for mental health services with a primary diagnosis listed in §M of this regulation when the services are provided by a hospital and the services are the result of the treatment of mental health diagnosis.

[E.**]** *F.*—**[**F.**]** *G.* (text unchanged)

[G.**]** *H.* An MCO is not responsible for reimbursing the behavioral poisoning diagnoses listed in **[**§N**]** *§O* of this regulation in an emergency department setting.

[H.**]** *I.* An MCO is not responsible for services billed by specialty mental health providers listed in COMAR 10.09.59 when the bill includes the specialty behavioral health diagnoses listed in **[**§K**]** *§L* or **[**L**]** *M* in the primary diagnosis field.

[I.**]** *J.* (text unchanged)

[J.**]** *K.* An MCO is not responsible for reimbursing for services billed by a physician related to prescribing buprenorphine or Vivitrol when the following conditions are met:

(1)—(4) (text unchanged)

(5) The procedure code listed on the claims is one of the following:

99201—J2315	(text unchanged)
J0571	*Buprenorphine, oral, 1 mg*
J0572	*Buprenorphine/naloxone, oral, less than or equal to 3 mg of buprenorphine*
J0573	*Buprenorphine/naloxone, oral, greater than 3 mg, but less than or equal to 6 mg buprenorphine*
J0574	*Buprenorphine/naloxone, oral, greater than 6 mg, but less than or equal to 10 mg buprenorphine*
80305	*Drug test(s), presumptive, any number of drug classes; any number of devices or procedures, (e.g., immunoassay) capable of being read by direct optical observation only (e.g., dipsticks, cups, cards, cartridges), includes sample validation when performed, per date of service*
80307	*Drug test(s), presumptive, any number of drug classes; any number of devices or procedures by instrumented chemistry analyzers (e.g., immunoassay, enzyme assay, TOF, MALDI, LDTD, DESI, DART, GHPC, GC mass spectrometry), includes sample validation when performed, per date of service (when provider has appropriately licensed and has adequate instrumentation)*

[K.**]** *L.* (text unchanged)

[L.**]** *M.* Table of mental health diagnoses:

(1) (text unchanged)

(2) For dates of service on or after October 1, 2015:

F200—F5081	(text unchanged)
F5082	*Avoidant/restrictive food intake disorder*
F5089—Z046	(text unchanged)

[M.**]** *N.*—**[**N.**]** *O.* (text unchanged)

DENNIS SCHRADER
Secretary of Health

Subtitle 14 CANCER CONTROL

10.14.06 Cigarette Restitution Fund Program

Authority: Health-General Article, §§13-1001—13-1014 and 13-1101—13-1119, Annotated Code of Maryland

Notice of Proposed Action

[18-001-P]

The Secretary of Health proposes to amend Regulations **.01—.04** under **COMAR 10.14.06 Cigarette Restitution Fund Program**.

Statement of Purpose

The purpose of this action is to:

(1) Add "underinsured" individuals to those who qualify for cancer treatment services per Ch. 139 (H.B. 747), Acts of 2017, Public Health — Cigarette Restitution Fund Programs — Modifications;

(2) Clarify which eligibility requirements apply to cancer treatment services and tobacco treatment products; and

(3) Update the name of the Maryland Children's Health Insurance Program.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be

accepted through February 5, 2018. A public hearing has not been scheduled.

.01 Scope.

This chapter establishes the financial eligibility criteria for an uninsured *or underinsured* individual to receive cancer treatment services and tobacco treatment products under the Cigarette Restitution Fund Program.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) "Cancer treatment service" means a medical service **[**or**]**, medical supply, or medical equipment provided to:

(a)—(d) (text unchanged)

[(4) "Children's Health Insurance Plan" means the program administered by Medical Assistance to provide health insurance coverage to eligible children younger than 19 years old in Maryland.**]**

[(5)**]** *(4)*—**[**(8)**]** *(7)* (text unchanged)

(8) "Maryland Children's Health Insurance Program" means the program administered by Medical Assistance to provide health insurance coverage to eligible children younger than 19 years old in Maryland.

(9)—(14) (text unchanged)

(15) "Underinsured" individual means an applicant:

(a) Who has private medical insurance, Medical Assistance, Medicare, or Maryland Children's Health Insurance Program coverage;

(b) For whom the appropriate treatment is not adequately covered due to out-of-pocket costs including:

(i) Copayments;

(ii) Coinsurance; or

(iii) Deductibles; and

(c) Who the Department determines does not have the financial means to pay for appropriate treatment.

[(15)**]** *(16)* "Uninsured" individual means an applicant who:

(a) Either:

(i) Does not have private medical insurance, Medical Assistance, Medicare, or *Maryland* Children's Health Insurance **[**Plan**]** *Program* coverage; or

(ii) Has private medical insurance, Medical Assistance, Medicare, or *Maryland* Children's Health Insurance **[**Plan**]** *Program* coverage that does not provide insurance coverage for medically necessary services for a cancer treatment service or tobacco treatment product; and

(b) (text unchanged)

[(16)**]** *(17)* (text unchanged)

.03 Responsibilities of the Department.

The Department shall:

A. Establish guidelines for defining financial eligibility of an **[**uninsured individual for the purpose of receiving**]**:

(1) **[**Cancer**]** *Uninsured or underinsured individual for the purpose of receiving cancer* treatment services under the Cancer Prevention, Education, Screening and Treatment Program; and

(2) **[**Tobacco**]** *Uninsured individual for the purpose of receiving tobacco* treatment products under the Tobacco Use Prevention and Cessation Program; and

B. (text unchanged)

.04 Responsibilities of Local Health Departments and Statewide Academic Health Centers.

A. (text unchanged)

B. If a local health department or a Statewide academic health center decides that grant funds under the Cigarette Restitution Fund Program will be used to pay for cancer treatment services or tobacco treatment products:

(1) (text unchanged)

(2) A local health department or a Statewide academic health center shall adhere to the financial guidelines established by the Department *for:*

(a) Cancer treatment services as set forth in Regulation .05 **[**and**]** *of this chapter; and*

(b) Tobacco treatment products as set forth in Regulation .06 of this chapter.

DENNIS SCHRADER
Secretary of Health

Subtitle 54 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

10.54.02 Local Agency

Authority: Health-General Article, §18-108, Annotated Code of Maryland

Notice of Proposed Action

[18-003-P]

The Secretary of Health proposes to amend Regulation **.18** under **COMAR 10.54.02 Local Agency**.

Statement of Purpose

The purpose of this action is to remove from regulation funding dollar amounts paid to local agencies for providing WIC Program services, and to add language stating that the rates will be updated annually and available from the Department.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.18 Payment to a Local Agency.

A. (text unchanged)

[B. Effective July 1, 2016, the Department shall award to the local agency a base funding of:

(1) $465,000 for a case load up to 3,999 participants;

(2) $510,000 for a case load from 4,000 to 7,999 participants;

(3) $640,000 for a case load of 8,000 to 11,000 participants;

(4) $610,000 for a case load of 11,001 to 20,000 participants; and

(5) $550,000 for a case load of 20,001 or more participants.

C. Effective July 1, 2016, the Department shall award to the local agency:

(1) $104 per participant annually, based on case load assignment; and

(2) $26 per quarter for each additional participant added by the Department to the initial case load assignment.

D. The Department shall reimburse a local agency for all allowable program costs up to the amount awarded by the Department and based on the submission of quarterly expenditure reports.

E. Effective July 1, 2016, the Department shall award to the local agency the following additional funds to promote and support breastfeeding by breastfeeding peer counselors:

(1) $70.88 per pregnant or breastfeeding participant annually, based on caseload assignment; and

(2) $17.72 per quarter for each additional pregnant or breastfeeding participant added by the Department to the initial caseload assignment.**]**

B. Funding rates will be updated annually and available from the Department.

DENNIS SCHRADER
Secretary of Health

Title 11
DEPARTMENT OF TRANSPORTATION

Subtitle 17 MOTOR VEHICLE ADMINISTRATION—DRIVER LICENSING AND IDENTIFICATION DOCUMENTS

Notice of Proposed Action

[17-313-P]

The Administrator of the Motor Vehicle Administration proposes to:

(1) Amend Regulations **.01** and **.02** under **COMAR 11.17.02 Expiration and Renewal of Driver's License**;

(2) Amend Regulations **.01**, **.02**, and **.04—.07** under **COMAR 11.17.09 Proof of Age, Full Name, Identity, Maryland Residence, Social Security Number and Lawful Status**; and

(3) Repeal Regulation **.01—.04** under **COMAR 11.17.12 Social Security Number**.

Statement of Purpose

The purpose of this action is to adopt regulations to clarify documents required by the Administration as proof of age, full name, identity, Maryland residence, Social Security number (SSN), and lawful status required for the issuance or renewal of a Maryland license or identification card consistent with federal requirements. Also, this action repeals and removes obsolete language, clarifies existing language, and corrects an error in the name of the agency that issues SSNs.

Comparison to Federal Standards

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

Estimate of Economic Impact

I. Summary of Economic Impact. This action is to clarify documents required by the Administration as proof of age, full name, identity, Maryland residence, Social Security number (SSN), and lawful status required for the issuance or renewal of a Maryland license or identification card consistent with federal requirements. Also, this action repeals and removes obsolete language, clarifies existing language, and corrects an error in the name of the agency that issues SSNs.

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

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

F. As proposed COMAR 11.17.02.01D and 11.17.02.02E require individuals possessing an expired driver's license to present certain proofs of identification when applying for a new driver's license.

As proposed COMAR 11.17.09.06 requires individuals renewing a driver's license or identification card, which is valid or has been expired for less than 1 year, to present certain proofs of identification if certain identification documents are not already on file with the Administration.

These requirements could potentially have an impact on the public; however, any impact is anticipated to be minimal in nature.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Tracey C. Sheffield, Regulations Coordinator, MDOT MVA, 6601 Ritchie Highway N.E., Room 200, Glen Burnie, MD 21062, or call 410-768-7545, or email to tsheffield@mdot.state.md.us, or fax to 410-768-7506. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

11.17.02 Expiration and Renewal of Driver's License

Authority: Transportation Article, §§12-104(b), 16-110(b), 16-111.1, and 16-115, Annotated Code of Maryland

.01 Expired Driver's License.

Previously licensed Maryland drivers who fail to renew their driver's licenses **[**as required under Transportation Article, §16-115,

Annotated Code of Maryland,**]** *within 1 year after expiration* are required to:

A. — C. (text unchanged)

D. Present documentation in accordance with COMAR 11.17.09.

.02 Armed Forces Licensees Absent from the State.

A. — D. (text unchanged)

E. If a license has expired, a member of the armed forces and the member's dependents shall, upon returning to the State, present **[**proof of identity**]** *documents* in accordance with COMAR **[**11.17.09**]** *11.17.09.06* for purposes of renewing their driver's licenses.

F. — G. (text unchanged)

11.17.09 Proof of Age, *Full* Name, Identity, *Maryland* Residence, *Social Security Number*, and Lawful Status

Authority: Transportation Article, §§12-104(b), 12-301, 16-103.1, 16-104.2, 16-106, 16-115, and 16-121—16-122, Annotated Code of Maryland; 6 CFR 37

.01 Purpose and Application.

[A.**]** The purpose of this chapter is to identify the documents acceptable to the Administration as proof of age, full name, identity, Maryland residence, Social Security number, and lawful status required for the issuance of a Maryland license or identification card as set forth in Ch. 390, Acts of 2009.

[B. This chapter is applicable to the issuance of a license or identification card by the Administration on or after June 1, 2009.**]**

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (13) (text unchanged)

(14) "SSN" means a Social Security number assigned by the **[**System**]** *Social* Security Administration.

(15) — (19) (text unchanged)

.04 Source Documents for Proof of Age, *Full* Name, Identity, *Maryland* Residence, Social Security Number, and Lawful Status or Temporary Lawful Status.

A. Except as otherwise provided in this chapter, an applicant for a Maryland license or identification card shall provide as applicable the documents specified in this chapter to the Administration as proof of:

(1) — (3) (text unchanged)

(4) **[**Residence**]** *Maryland residence*;

(5) — (6) (text unchanged)

B. An applicant, to establish proof of age, *full* name, and identity, shall submit at least one of the following source documents:

(1) — (8) (text unchanged)

(9) Any other documents designated acceptable by U.S. DHS by notice published in the Federal Register or acceptable **[**by**]** *to* the Administration.

C. Source Documents for Residency. To establish Maryland residency, an applicant for a license or identification card shall submit at least two different source documents reflecting the applicant's full name and current Maryland residence address. The address on source documents shall match the address on the application and may not be from the same business, company, or agency. The residency source documents include:

(1) — (14) (text unchanged)

(15) Cancelled check with imprinted *full* name and address;

(16) — (20) (text unchanged)

D. To establish proof of SSN, an applicant shall submit:

(1) — (4) (text unchanged)

(5) Pay stub bearing the applicant's *full* name and SSN, not more than 3 months old.

E. To establish proof of ineligibility for an SSN, an applicant shall submit:

(1) (text unchanged)

(2) Other proof of ineligibility for an SSN acceptable **[**by**]** *to* the Administration.

F. Proof of Lawful Status.

(1) An applicant may use an acceptable document submitted as proof of age, *full* name, and identity under §B(1)—(8) of this regulation as proof of lawful status; or

(2) If an applicant submits one source document for proof of age, *full* name, and identity under §B(9) of this regulation, the applicant shall submit a second source document listed under §B(1)—(8) of this regulation, or other documentation issued by the U.S. DHS or other federal agencies to establish lawful status.

G. (text unchanged)

.05 Source Document Exception Process.

A. — C. (text unchanged)

D. The Administration may accept the following documents as proof of identity and date of birth if the applicant is 65 years of age or older and unable to provide the source documents defined under Regulation .04 of this chapter:

(1) An original discharge document from the military with the applicant's *full* name and date of birth; or

(2) A statement on SSA letterhead, indicating the applicant's *full* name and date of birth.

E. (text unchanged)

.06 Renewal or Issuance of a Subsequent License or Identification Card.

A. — B. (text unchanged)

C. The requirement to establish proof of *age, full name,* identity, lawful status, SSN, and Maryland residency may be waived for the holder of an existing Maryland license or identification card, *which is valid or has been* expired for less than **[**one**]** *1* year, **[**if the applicant's**]** *under the following conditions*:

(1) *For an applicant seeking a compliant driver's license or identification card, the applicant's:*

(a) Driver's license or identification card is not a limited term driver's license or identification card;

[(2)**]** *(b) Proof of age, full name, identity, lawful status, SSN if applicable, Maryland residency and* **[**Image**]** *digital photographic image* and signature are on file with the Administration and the applicant provides *full* name and signature documents acceptable to the Administration;

[(3)**]** *(c)* (text unchanged)

[(4)**]** *(d)* Maryland residency address is acceptable to the Administration**[**.**]***; or*

(2) For an applicant seeking a non-compliant driver's license or identification card, the applicant's:

(a) Driver's license or identification card is not a limited term driver's license or identification card;

(b) Proof of age, full name, identity, Maryland residency and digital photographic image and signature are on file with the Administration and the applicant provides full name and signature documents acceptable to the Administration; and

(c) Maryland residency address is acceptable to the Administration.

D. — E. (text unchanged)

.07 45 Day Temporary License or Identification Card.

A. — B. (text unchanged)

C. In the event of any other non-match as provided for under Transportation Article, §§16-121(c), and 16-122, the Administration

shall issue a 45 day noncompliant license or 45 day identification card only if the Administration has reasonable grounds to determine that the applicant otherwise meets all eligibility requirements as set forth in Regulation .03 of this chapter for, **[**and**]** a license or identification card but for the non-match, as provided for under Transportation Article, §§16-121(c) and 16-122, Annotated Code of Maryland.

D. In the event **[**of**]** an applicant is unable to pass a required vision test, the Administration may issue a 45 day temporary license if at the time of testing:

(1) — (2) (text unchanged)

E. (text unchanged)

CHRISTINE NIZER
Administrator
Motor Vehicle Administration

Title 12
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Notice of Proposed Action

[17-321-P]

The Secretary of Public Safety and Correctional Services, in cooperation with the Commissioner of Correction, Commissioner of Pretrial Detention and Services, and Director of Patuxent Institution, proposes to:

(1) Repeal Regulation **.01** under **COMAR 12.02.10 Chaplaincy Services Program**; and

(2) Adopt new Regulations **.01 — .11** under a new chapter, **COMAR 12.03.02 Religious Services** under a new subtitle, **Subtitle 03 Operations**.

Statement of Purpose

The purpose of this action is to update current policies related to the provision of religious services and religious dietary needs to inmates within the custody and control of the Department. The new regulation clarifies existing procedures and creates a uniform process for providing religious services and religious dietary needs for all applicable units within the Department.

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 Chaplain Charles Law, Chief of Religious Services, Maryland Department of Public Safety and Correctional Services, 6776 Reisterstown Road, Ste. 310, Baltimore, Maryland 21215, or call 410-585-3500, or email to charles.law@maryland.gov. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

Subtitle 03 OPERATIONS

12.03.02 Religious Services

Authority: Correctional Services Article, §§2-109(c); 3-205; 4-208; and 5-201, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Business day" means a day other than a Saturday, Sunday, State Holiday, or day on which State administrative offices are closed.

(2) "Ceremonial meal" means a religious meal associated with the commemorating of a formal religious or sacred observance.

(3) "Commissary manager" means the individual responsible for a facility commissary or the Department of Public Safety and Correctional Services (Department) contract monitor for a commissary vendor.

(4) "Enhanced meal" means a dinner meal with additional portions of food provided in addition to the regular meal to meet the minimum daily nutritional needs during a religious observance of fasting.

(5) "Halal diet" means food that is certified by a recognized Muslim Certification Agency.

(6) "High religious observance" means the:

(a) Jewish high holy days of Rosh Hashanah, Yom Kippur, and Passover; and

(b) Islamic high holy month of Ramadan.

(7) Inmate.

(a) "Inmate" means an individual committed to the custody of the Department.

(b) "Inmate" does not include an individual detained without having been committed to the Department.

(8) "Kosher diet" means food that is certified by a recognized Orthodox Jewish Certification Agency.

(9) "Passover" means a holiday that celebrates the deliverance of the ancient Hebrews from slavery.

(10) "Registered religious preference" is the faith group with which the inmate is affiliated within the Department's Religious Services Program.

(11) "Religious diet" means a dietary option that:

(a) Meets or exceeds established nutritional standards based on the Dietary Reference Intake (DRI), Food and Nutrition Board, Institute of Medicine, Nutritional Academies, for ages 19-50 years old and above, with the exception of iron for pregnant females;

(b) Conforms to dietary restrictions of the inmate's designated faith group; and

(c) Cannot be met by the Department's standard menu.

(12) "Seasonal observance" means a worship or celebration recognized annually at a specific time of year, which, unlike a routine observance, has specific value to a particular religious group.

(13) Seder Plate.

(a) "Seder Plate" means a ceremonial plate for the Seder service that is separate from the special Passover meal and is provided during Passover Seder service.

(b) "Seder Plate" for the Jewish, Messianic House of Yahweh, Assemblies of Yahweh, and Hebrew Israelites faith groups consists of:

(i) Matzo (unleavened bread);

(ii) Roasted lamb bone;

(iii) Bitter herb horseradish and romaine lettuce;

(iv) Parsley and celery or boiled potato;

(v) Chopped apples and nuts (mixed) with grape juice; and

(vi) A cup of salt water.

.02 Chaplaincy.

A. Exercise of Religious Belief.

(1) Within security and program limitations, the Commissioner of Correction, Commissioner of Pretrial and Detention Services, and the Director of Patuxent Institution shall ensure that each inmate has reasonable opportunity to exercise personal religious beliefs.

(2) The Commissioner of Correction, Commissioner of Pretrial and Detention Services, and the Director of Patuxent Institution shall ensure that each religion receives equal access to religious services.

B. Inmate participation in religious programming is voluntary.

C. The Commissioner of Correction, Commissioner of Pretrial and Detention Services, and the Director of Patuxent Institution shall ensure that religious services are conducted by chaplains or approved religious volunteers, or both, and are available to the general inmate population.

D. Religious activities are subject to supervision by facility security staff.

E. Ceremonial Meal.

(1) A holy day or seasonal observance may be held with a meal if the meal is part of the holy day or observance based on religious tradition or mandate.

(2) Each Department-recognized religious faith group may have one ceremonial meal in a calendar year.

(3) An inmate may attend only one ceremonial meal during the calendar year.

(4) A ceremonial meal shall be served in the food service facility, except when the managing official, or a designee, approves another location.

(5) Facility food services is the only source of food items for use with a ceremonial meal.

(6) The facility chaplain shall coordinate with Food Services to ensure:

(a) Appropriate ritual food items are available for the ceremonial meal; and

(b) At least 60 days are afforded for preparation for the ceremonial meal.

(7) Holy day or seasonal observances may be held for inmates in special confinement housing if operational capabilities of the facility permit without jeopardizing facility safety and security.

.03 Religious Diet Program — General.

A. The Department shall make reasonable accommodations to provide inmates in each correctional facility under the Department's authority with dietary options that meet accepted religious dietary requirements.

B. The Department's Religious Diet Program (RDP) consists of the following two meal platforms:

(1) The Halal diet that shall be offered to an inmate who has designated the inmate's religious faith as one of the following Islamic faith groups:

(a) Shi'ite;

(b) Sunni;

(c) Nation of Islam (all recognized groups);

(d) Moorish Science Temple (all recognized groups); or

(e) Other recognized religions that have the same basic tenets that require the Halal diet; and

(2) The Kosher diet that shall be offered to an inmate who has designated the inmate's religious faith as one of the following faith groups:

(a) Jewish;

(b) House of Yahweh;

(c) Assemblies of Yahweh;

(d) Messianic Jewish;

(e) Hebrew Israelites; or

(f) Other recognized religions that have the same basic tenets that require the Kosher diet.

C. In October of each calendar year, the facility chaplain, or a designee, shall:

(1) Prepare an annual religious services plan for the next calendar year (January — December);

(2) Include in the religious services plan the dates for high religious observance, seasonal observances, fasting periods, and programs for each recognized faith group that requires a special ceremonial diet; and

(3) Distribute the annual religious services plan to the facility's managing official, or a designee.

D. The Director of Food Service, or a designee, shall:

(1) Ensure that the RDP dietary platforms are certified by an appropriate authority;

(2) Ensure that the RDP meets or exceeds minimum daily nutritional requirements established and approved by the Academy of Nutrition and Dietetics as they relate to food service in a correctional facility;

(3) Provide correctional dietary managers with a copy of the RDP menu, as well as announcements, updates, and changes to ensure that the RDP maintains compliance with both religious and nutritional dietary requirements;

(4) Ensure that correctional dietary managers and food service contractors are adhering to RDP requirements regarding the use of designated Kosher emblem tape; and

(5) Ensure that a correctional dietary manager does not alter the RDP menu except where seasonal availability of fresh produce or unexpected unavailability of canned or frozen food items warrants acceptable substitution, as follows:

(a) A correctional dietary manager may make temporary nutritionally equal substitutions based on the availability of seasonal produce; and

(b) Substitutions for the RDP shall be in accordance with the Department's Dietary Program.

E. An inmate:

(1) May abstain from regularly offered food items that the inmate believes to be prohibited by the inmate's religion; and

(2) Abstaining from certain food items under §E(1) of this regulation may:

(a) Still achieve a balanced diet by eating food items that are not prohibited by religious beliefs that are being offered to the inmate population;

(b) Not be served pork, pork items, and foods prepared with pork renderings; and

(c) Choose to participate in the master cycle meat menu or the lacto-ovo vegetarian menu.

F. An inmate who voluntarily withdraws or is involuntarily removed from the RDP in accordance with provisions under Regulations .05 and .06 of this chapter:

(1) May request a lacto-ovo vegetarian menu for nonreligious reasons; and

(2) May not be reconsidered for the RDP until existing RDP-related sanctions end and the inmate files a request in accordance with Regulation .04 of this chapter.

G. An inmate designated to have a diet based on medical needs or a special management diet may not participate in the RDP.

H. During a declared emergency and for up to 72 hours from the start of a lockdown of a housing area or facility that houses an RDP participating inmate, the facility's managing official may suspend delivery of meals that are in compliance with RDP requirements.

I. The facility shall provide an RDP bag lunch for an RDP inmate assigned to a work crew outside the facility.

.04 Requesting and Processing an Inmate's Request to Participate in the Religious Diet Program.

A. An inmate seeking to participate in the RDP shall submit a completed Religious Diet Application Form to the facility chaplain, or a designee.

B. Upon receipt of a Religious Diet Application Form under §A of this regulation, the facility chaplain, or a designee, shall:

(1) Meet with the inmate to:

(a) Review with the inmate the requested RDP platform;

(b) Review with the inmate the Religious Diet Agreement, specifically the violation and sanction section;

(c) Inform the inmate that violation of RDP requirements may result in the inmate's involuntarily suspension from the RDP independent of the inmate disciplinary process;

(d) Inform the inmate that the inmate is required to reapply for participation in the RDP every 2 years;

(e) Obtain information from the inmate concerning the inmate's registered religious preference and the reasoning for the request to participate in the RDP; and

(f) Discuss other applicable information used in connection with the RDP request;

(2) Use information provided by the inmate in connection with the inmate's records and other available documentation to determine if the inmate is a designated participant in a Department-recognized faith group that requires a diet that can only be satisfied by the RDP; and

(3) Use forms approved by the Chief of Religious Services to record:

(a) Information obtained from the inmate; and

(b) RDP information provided to the inmate.

C. When processing an inmate's request to participate in the RDP, the facility chaplain, or a designee:

(1) Shall complete a review of all forms and applicable information obtained in connection with the inmate's RDP application;

(2) Shall, based on the available information concerning the application to participate in the RDP, determine if the inmate is eligible to participate in the RDP based on the inmate's recognized participation in a religious faith group listed under Regulation .03 of this chapter;

(3) May not deny an inmate's application to participate in the RDP because the inmate is assigned to special confinement housing or a medical unit;

(4) May deny an inmate's application to participate in the RDP because the inmate falsified information;

(5) May require additional information from the inmate to complete or supplement the inmate's RDP application;

(6) Shall decide based on all information available and considered to approve or deny the inmate's RDP application; and

(7) Shall document the decision to approve or deny the inmate's request to participate on the RDP application.

D. Upon completion of an inmate's request to participate in the RDP, the facility chaplain or a designee shall:

(1) If a request for RDP participation is denied:

(a) Meet with the inmate and provide the reason for the denial;

(b) Record the date of the meeting to discuss the denial on the form approved by the Chief of Religious Services; and

(c) Ensure that the completed paperwork is forwarded to Case Management for inclusion in the inmate's base file; or

(2) If a request for RDP participation is approved:

(a) Meet with the inmate to obtain the inmate's signature on a Religious Diet Agreement Form;

(b) Forward a copy of the inmate's completed Religious Diet Agreement Form to the Correctional Food Services manager for the inmate's facility; and

(c) Forward the completed paperwork to Case Management for inclusion in the inmate's base file.

.05 Voluntary Withdrawal from the RDP.

A. An inmate may voluntarily withdraw from participation in the RDP.

B. An inmate voluntarily withdrawing from the RDP, as soon as possible after deciding not to participate, shall notify the facility chaplain, in writing on a form approved by the Chief of Religious Services:

(1) That the inmate is voluntarily withdrawing from the RDP; and

(2) The reason for withdrawing from the RDP.

C. Upon receipt of notification under §B of this regulation, the facility chaplain, or a designee, shall meet with the inmate submitting the notification to advise the inmate that:

(1) Once voluntarily removed from the RDP, except for provisions under §C(3) of this regulation, the inmate may not re-apply for RDP participation for 1 year from the date voluntary removal was accepted;

(2) Except for provisions under §C(3) of this regulation, once an inmate has requested voluntary withdrawal from the RDP three times, the inmate may not re-apply for participation in the RDP until after 2 years from the date of the last voluntary withdrawal from the RDP; and

(3) An inmate voluntarily withdrawing from the RDP may continue to participate in other faith group religious observances and ceremonial meals.

D. A facility chaplain, or a designee, processing an inmate's voluntary withdrawal from the RDP shall:

(1) Record the approval on a form approved by the Chief of Religious Services;

(2) Record the meeting and conditions of the inmate's voluntary withdrawal discussed with the inmate as required under §C of this regulation on a form approved by the Chief of Religious Services;

(3) Within 5 business days of the date the inmate's voluntary withdrawal request is processed:

(a) Notify the correctional dietary manager of the inmate's withdrawal; and

(b) Provide the correctional dietary manager with an updated list of RDP participants; and

(4) Forward the completed forms recording the voluntary withdrawal to Case Management for inclusion in the inmate's base file.

.06 Involuntary Suspension from the RDP.

A. An inmate may be involuntarily removed from the RDP independent of the inmate disciplinary process for violating the agreed upon conditions of participation in the RDP.

B. An employee with knowledge that an inmate enrolled in the RDP has consumed or purchased from the commissary a food item that is not part of the inmate's approved RDP dietary platform shall report the allegation:

(1) In a manner or on a form approved by the Chief of Religious Services; and

(2) To the facility chaplain, or a designee.

C. Upon receipt of an allegation under §B of this regulation, the facility chaplain, or a designee, shall:

(1) Review the allegation; and

(2) Handle the allegation in accordance with provisions under §D of this regulation.

D. A facility chaplain, or a designee, handling an alleged RDP agreement violation shall:

(1) Meet and discuss the alleged RDP agreement violation with the inmate;

(2) Determine if the inmate violated the agreed-to RDP conditions; and

(3) If determining that a violation of the RDP conditions did occur, except for provisions under Regulation .05C(3) of this chapter, determine a sanction as follows:

(a) First offense, the inmate shall be:

(i) Counseled regarding commissary or food items that may be purchased or consumed under the RDP;

(ii) Required to sign a new RDP agreement acknowledging understanding the consequences of a second offense; and

(iii) Permitted to continue in the RDP;

(b) Second offense, the inmate shall be:

(i) Counseled regarding commissary or food items that may be purchased or consumed under the RDP;

(ii) Suspended from the RDP for 90 days; and

(iii) Upon completion of the 90-day suspension, required to sign a new RDP agreement acknowledging understanding the consequences of a third offense before being permitted to participate in the RDP following the 90-day suspension; or

(c) Third offense, the inmate shall be:

(i) Counseled regarding commissary or food items that may be purchased or consumed under the RDP;

(ii) Suspended from the RDP for 1 year; and

(iii) Upon completion of the 1-year suspension, required to reapply to participate in the RDP in accordance with procedures established under this chapter;

(4) Meet with the affected inmate to:

(a) Discuss the decision, any imposed sanctions, and the impact of continued violations of the agreed-to RDP conditions; and

(b) Obtain the inmate's signature on a new RDP Agreement form;

(5) Document the process and meetings in a manner or on a form approved by the Chief of Religious Services; and

(6) If after 5 business days from the date the inmate is notified of a decision under §D(3) of this regulation, the inmate does not appeal the facility chaplain's, or a designee's, action:

(a) Forward a copy of the documentation to Case Management for inclusion in the inmate's base file; and

(b) If the decision results in changes to notification previously made to the facility's correctional dietary manager, within 5 business days of the end of the period for filing an appeal, provide written notification of the appropriate updates to the facility correctional dietary manager.

E. Occurrences of involuntary suspension from the RDP continue to accrue for the purpose of progressive sanctions under §D(3) of this regulation regardless of an inmate's voluntary withdrawal from the RDP.

F. An inmate involuntarily suspended from the RDP may continue to participate in other faith group religious observances and ceremonial meals.

.07 Appeal of Involuntary Suspension from the RDP.

A. An inmate may appeal a facility chaplain's, or a designee's, decision made in accordance with Regulation .06 of this chapter.

B. An inmate filing an appeal under §A of this regulation shall:

(1) File the appeal within 5 business days of the date of the adverse decision;

(2) Submit the appeal on a form or in a manner approved by the Chief of Religious Services to the facility chaplain, or a designee; and

(3) Remain in the RDP during the appeal process.

C. Within 10 business days of receipt of an appeal under §B of this regulation, the facility chaplain, or a designee, shall:

(1) Attach the inmate's appeal to other forms completed as part of the action taken by the facility chaplain, or a designee, to remove the inmate from the RDP;

(2) Provide a written recommendation regarding the appeal that includes the reason and support for the recommendation; and

(3) Forward the documents to the facility's managing official, or a designee.

D. Within 10 business days of receipt of an appeal under §C(3) of this regulation, the managing official, or a designee, shall:

(1) Review and, if necessary, obtain additional information concerning the documents received;

(2) Decide to:

(a) Affirm the original decision and sanction;

(b) Affirm the original decision and reduce the original sanction; or

(c) Overturn the original finding that a violation occurred;

(3) Provide a written decision that includes the reason and support for the decision; and

(4) Forward the documents to the facility chaplain, or a designee.

E. Upon receipt of a decision under §D(4) of this regulation, the facility chaplain, or a designee, shall comply with applicable requirements established under §D(2) of this regulation.

.08 Re-admittance to the RDP Following Involuntary Suspension.

A. An inmate who was previously involuntarily suspended from the RDP for 1 year may re-apply to participate in the RDP.

B. An inmate reapplying for the RDP following being involuntarily suspended from the RDP for 1 year shall be readmitted if the inmate:

(1) Has completed the period of suspension related to the involuntary suspension;

(2) Makes a request in accordance with provisions under Regulation .04 of this chapter; and

(3) Is approved for the RDP in accordance with provisions under Regulation .04 of this chapter.

.09 RDP Commissary Products.

A. RDP-approved food products shall be available from the commissary.

B. The commissary manager shall ensure that food items approved for use with the RDP are:

(1) Certified by the appropriate recognized religious certification authority; and

(2) Appropriately marked on the commissary products list to identify the RDP diet platform to which the items apply.

C. An inmate approved for participation in the RDP, as an agreed-to condition of participation in the RDP, may only purchase commissary food items approved for the specific RDP diet platform for which the inmate has been approved.

D. If requested by the commissary manager, the facility chaplain, or a designee, shall provide the commissary manager:

(1) With a list of inmates approved for the RDP; and

(2) Indicate for each inmate on the list the RDP platform for which the inmate is approved.

E. If a facility chaplain, or a designee, has knowledge that an inmate is allegedly violating the agreed-to terms for participation in the RDP, the chaplain, or a designee, shall address the alleged violation according to procedures established under Regulation .06 of this chapter.

.10 Halal Diet Platform Requirements.

A. The RDP Halal Diet platform is a lacto-ovo vegetarian diet that is Halal Certified.

B. At a minimum, 30 days before the observance of Ramadan, the facility chaplain, or a designee, shall inform the facility's correctional dietary manager, or a designee, of the following to ensure that an inmate who will observe the ceremonial fasting (dawn to sunset) is provided with:

(1) If needed, an early breakfast served before dawn; and

(2) A late dinner served immediately after sunset that consists of an enhanced meal as prescribed by the Office of Food Services.

C. Daily during the Ramadan observance, the facility chaplain, or a designee, shall inform the correctional dietary manager, or a designee, of changes to the list of inmates approved to participate in the observance.

D. An inmate currently prescribed a medical diet shall, before participating in the Ramadan fasting:

(1) Review health and medical diet concerns with the facility's medical staff;

(2) If applicable, sign a medical waiver for the period of the Ramadan observance; and

(3) After the period of the Ramadan observance ends, return to the applicable medical diet, if the medical condition warranting the diet still exists.

E. The commissary manager shall:

(1) Ensure that appropriate Ramadan food items, traditionally used breaking a fast, such as dried date palms (dates), are available for purchase by the inmates a minimum of 60 days before the Ramadan observance; and

(2) Advise the facilities when the Ramadan food items, including dried dates, are available for purchase and the cost of each item.

F. A facility chaplain, or a designee, shall notify the facility's Islamic inmate population, at least 60 days before the Ramadan observance, of the availability of the Ramadan food items, including dried dates, and the cost of each item.

.11 Kosher Diet Platform Requirements.

A. Food service employees and applicable food services contactor staff in a facility that provides the RDP Kosher platform diet shall be trained in the Kosher Diet procedures according to the following:

(1) On an annual basis, a mandatory RDP Kosher platform training shall be provided for all food service employees and contractors;

(2) RDP Kosher platform training shall be provided for newly hired food service employees and contractors within 60 days of hiring;

(3) Upon completing the Kosher Diet training, a food service employee shall sign and date the Food Service Staff Religious Diet Training Acknowledgement form; and

(4) Food service personnel shall prepare Kosher Diet food in the area specifically designated for that purpose.

B. If an inmate worker is assigned to prepare Kosher Diet meals, the facility's correctional dietary manager, or a designee, shall:

(1) Provide the inmate worker with Kosher Diet training that is required under §A of this regulation and approved by the Director of Food Services, or a designee;

(2) Upon completion of the training, ensure that the inmate worker signs and dates the Food Service Inmate Worker Religious Diet Training Acknowledgement form;

(3) Ensure that each inmate worker meets:

(a) Annual COMAR requirements for medical screening, as related to food handling and preparation;

(b) Requirements established in the Food Service Manual, such as training in sanitation and inspections, Hazard Analysis and Critical Control Points, health and safety codes, personal hygiene, foodborne illness, care and use of equipment, and food temperatures; and

(c) Other applicable statutory and regulatory and policy and procedural requirements; and

(4) Supervise the inmate worker assigned to prepare Kosher Diet meals.

C. A food item used for the RDP Kosher Diet platform, except fresh fruits and vegetables, shall be certified by a recognized orthodox standard accepted by the Department's Religious Services Program.

D. Kosher Diet Hot Entree — Availability and Preparation.

(1) A hot RDP Kosher Diet platform entree shall:

(a) Be available and served at a minimum six times during a week (Sunday — Friday);and

(b) Include Kosher certified, purchased precooked, or dehydrated food items whenever possible.

(2) Only Kosher Diet approved equipment that is clearly marked "RDP" may be used to rehydrate and heat items for the Kosher Diet.

(3) A food service employee or inmate worker may not:

(a) Cook or reheat a non-Kosher Diet platform food item in the Kosher Diet preparation area; or

(b) Use a pot, utensil, electric burner, or microwave oven that has been designated and marked "RDP" for the Kosher Diet platform for any other purpose.

E. Kosher Beverages. Beverages available for the general population, such as soda from the dispenser, pure juice with the exception of grape, nonflavored coffee or tea, water, and milk are currently Kosher-certified and may be used as part of the RDP Kosher Diet platform.

F. Kosher Food Storage.

(1) Upon delivery of an RDP Kosher Diet platform food product, a food service employee or inmate worker having been trained in the Kosher Diet procedures shall place the Kosher Diet products in a designated location for staging or storage until the product is to be used.

(2) An RDP Kosher Diet platform refrigerated food product shall be stored in a:

(a) Separate, clearly identified, and "RDP" marked refrigerated unit or freezer; or

(b) Common refrigerator or freezer that has space designated and marked for Kosher Diet platform food products.

(3) An RDP Kosher Diet dry storage food product shall be:

(a) Stored in a dry storage location separate from food that is not part of the RDP Kosher Platform and clearly identified as "RDP"; or

(b) Placed in a designated and marked "RDP" area of a common dry food storage location, and clearly identified as "RDP".

G. Serving Trays and Utensils.

(1) RDP identified reusable serving trays, covers, and cups shall be used for the RDP Kosher Diet platform as follows:

(a) Items are to be stored separately from non-Kosher Diet platform items; and

(b) In the absence of reusable items, Styrofoam disposable items are acceptable.

(2) Kosher Diet serving trays, covers, and cups shall be washed and sanitized before non-Kosher Diet platform equipment.

(3) Dish water shall be drained from sinks and clean water shall be used to wash an RDP Kosher Diet platform item.

H. Kosher Diet Platform Food and Utensil Handling.

(1) A food service utensil used to prepare, serve, or transport RDP Kosher Diet platform food items shall be stored, handled, used, and cleaned separately from non-Kosher Diet platform food utensils.

(2) A utensil used for the RDP Kosher Diet platform shall be:

(a) Marked with "RDP";

(b) Washed and sanitized in the pot and pan area before non-Kosher Diet platform utensils have been cleaned; and

(c) Stored in a separate:

(i) Area in the tool room identified as the Kosher Diet area; or

(ii) Tool box clearly marked as "RDP" within a common tool room.

(3) A three-compartment sink shall be washed, rinsed, sanitized, and refilled with clean water before an RDP Kosher Diet platform utensil is cleaned in the sink.

(4) A food service employee or inmate worker may not handle non-Kosher Diet food items while preparing or cooking RDP Kosher Diet platform food items.

(5) A food service employee or inmate worker handling non-Kosher Diet food items before entering the Kosher Diet food preparation area to prepare kosher food shall:

(a) Wash hands thoroughly;

(b) Change into a clean apron; and

(c) Put on clean gloves.

I. Serving RDP Kosher Diet Platform Food Items.

(1) An RDP Kosher Diet platform food item shall be:

(a) Prepared in advance of the meal period and, except for the RDP Kosher Diet platform hot entree, placed under refrigeration in RDP designated refrigeration; and

(b) Prior to being served, placed on serving trays designated for the RDP Kosher Diet platform.

(2) Except for beverages currently certified as Kosher, inmates participating in the RDP Kosher Diet platform may not select or be served non-RDP Kosher Diet platform food or beverages.

J. Kosher Specific Requirements for the Passover Observance.

(1) Religious diet accommodations provided for Passover meals shall meet or exceed basic nutritional requirements.

(2) During the Passover observance, RDP Kosher Diet platform meals shall consist of Kosher-for-Passover approved food items, as follows:

(a) Breakfast shall consist of Kosher-for-Passover:

(i) Cereal;

(ii) Coffee;

(iii) Sugar;

(iv) Jelly or honey;

(v) Matzo;

(vi) Fresh milk;

(vii) Hard boiled eggs (processed or cooked prior to the start of the Passover period); and

(viii) Fresh fruit;

(b) On Sunday through Friday of the Passover observance, lunch and dinner trays shall consist of a Kosher-for-Passover entree and Kosher-for-Passover vegetables (with the exception of legumes and foods containing soy, corn, or a derivative of either food);

(c) When the Passover Seder falls on a Friday or Saturday evening, the Seder meal shall include the hot entree that is not prepared until after the Kosher preparation area has been made Kosher-for-Passover acceptable in accordance with the RDP Kosher Diet training handouts that detail:

(i) Kosher-for-Passover preparation; and

(ii) Pre-Passover notification reminders from the Director of Food Services regarding Passover preparation; and

(d) When the Passover Seder does not fall on a Friday or Saturday, on Saturdays (Sabbath) during the Passover observance the lunch and dinner meals shall consist of an entree of:

(i) Kosher-for-Passover American cheese, cottage cheese, tuna, sardines and condiments; or

(ii) Boiled eggs with assorted fresh vegetables and fruit.

(3) Seder Service and Seder Plate.

(a) The facility chaplain or a designee shall determine if each participating congregative faith group will observe the Seder in full.

(b) During the first 2 nights of Passover when the Seder service is held, in addition to the special Passover meals, a Seder plate shall be provided to each participating congregative faith group, as follows:

(i) For congregational Seder services, each table shall be provided one Seder plate, generally four inmates per table whether the Seder service is held in the dining area, chapel, or another meeting room; and

(ii) In special confinement housing units, each inmate shall be provided a Seder plate.

K. No later than January 10 of each year, the Chief of Religious Services shall forward in writing or by email the dates that Passover is observed to the managing official, or a designee, Director of Food Services, and facility chaplain, or a designee, of each correctional facility.

L. The Director of Food Services shall notify correctional dietary managers of the dates Passover is observed.

M. Nine weeks before the beginning of the Passover observance, the facility chaplain, or a designee, shall meet with the inmates of the groups that observe Passover to provide the official dates that Passover is observed that year.

N. Eight weeks before the date of the start of Passover, inmates who want to observe Passover shall:

(1) Make the request using a form approved by the Chief of Religious Services; and

(2) Submit the completed form to the facility chaplain, or a designee.

O. The commissary manager shall:

(1) Ensure that Kosher-For-Passover items are available for purchase by an inmate at a minimum of 60 days before the Passover observance; and

(2) Advise the facility chaplain, or a designee, of the dates the Kosher-For-Passover items are available for purchase and the cost.

P. Kosher-for-Passover Facility Preparation.

(1) Seven weeks before the beginning of the Passover observance, a facility chaplain or a designee shall notify the correctional dietary manager of the expected number of inmates participating in the Passover observance.

(2) The correctional dietary manager shall ensure sufficient Kosher-for Passover related food items are ordered from vendors supplying items for the Passover observance, and restocking when necessary.

(3) The correctional dietary manager shall, to the extent possible, ensure that the order of Passover food items includes extra portions to accommodate last minute changes to the number of participating inmates based on new intakes.

(4) Eight days before Passover, each kitchen and related areas used to prepare and serve meals during Passover shall be made Kosher and only Kosher for Passover food may be prepared and served from the Kosher kitchens and related areas.

Q. A managing official, or a designee, may not change the dates or menu of the planned Passover observance, except during an emergency and after consulting with the Director of Food Services and the Office of Religious Services.

R. An inmate observing Passover shall only be provided RDP Kosher-For-Passover approved food items and beverages.

S. If changes occur during Passover, the Office of Religious Services shall provide the correctional dietary manager with changes to the list of inmates who are participating in the special Passover ceremonial meals.

STEPHEN T. MOYER
Secretary of Public Safety and Correctional Services

Title 14
INDEPENDENT AGENCIES
Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY
14.22.02 Criminal Offenses and Seriousness Categories

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland

Notice of Proposed Action

[17-320-P]

The Maryland State Commission on Criminal Sentencing Policy proposes to amend Regulation **.02** under **COMAR 14.22.02 Criminal Offenses and Seriousness Categories**.

Statement of Purpose

The purpose of this action is to indicate modifications to the table of seriousness categories (guidelines offense table) in COMAR 14.22.02.02. The proposed revisions reflect:

(1) The addition of CJIS Codes for offenses amended by the Justice Reinvestment Act;

(2) The addition of CJIS Codes for new and amended offenses passed during the 2017 Legislative Session; and

(3) Other minor edits to the table.

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 Soule, Executive Director, Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Rd, Suite 309, College Park, MD 20742, or call 301-403-4165, or email to dsoule@umd.edu, or fax to 301-4703-4164. Comments will be accepted through February 5, 2018. A public hearing has not been scheduled.

.02 Seriousness Categories.

	Offense Literal	CJIS Code	Source	Felony or Misd.	Max Term	Min Term	Offense Type	Ser. Category	Fine
1	**Abuse and Other Offensive Conduct** Child Abuse—physical, with death, victim at least 13 years old	**[**1-1639**]** *1-1108*	CR, §3-601(b)(2)(ii)	Felony	40Y ♦		Person	II	
1-1	**Abuse and Other Offensive Conduct** Child Abuse—physical, with death, victim younger than 13 years old	*1-1109*	CR, §3-601(b)(2)(iii)	Felony	LIFE ♦		Person	I	
1-2—34 (text unchanged)									
35	**Bad Check** Felony bad check, $100,000 or greater	*1-1164* *1-1168* *1-1172* *1-1176* *1-1180*	CR, §8-103 CR, §8-106(a)(3)	Felony	20Y		Property	III	$25,000
35-1	**Bad Check** Felony bad check, at least $25,000 but less than $100,000	*1-1165* *1-1169* *1-1173* *1-1177* *1-1181*	CR, §8-103 CR, §8-106(a)(2)	Felony	10Y		Property	V	$15,000
35-2	**Bad Check** Felony bad check, at least $1,500 but less than $25,000	*1-1166* *1-1170* *1-1174* *1-1178* *1-1182*	CR, §8-103 CR, §8-106(a)(1)	Felony	5Y		Property	VI	$10,000
35-3	**Bad Check** Multiple bad checks within a 30-day period, each at least $1,500 but less than $25,000 and totaling at least $1,500 but less than $25,000	*1-1162* *1-1163*	CR, §8-103 CR, §8-106(b)	Felony	5Y		Property	VI	$10,000

36	**Bad Check** Misdemeanor bad check, at least $100 but less than $1,500	*1-1167* *1-1171* *1-1175* *1-1179* *1-1184*	CR, §8-103 CR, §8-106(c)	Misd.	1Y		Property	VII	$500
36-1—36-4 (text unchanged)									
37	**Bribery** Bribery to or by public officer	**[**1-5101**]** **[**1-5103**]** *1-1437* *1-1438*	**[**Common law;**]** CR, §9-201	Misd.	12Y	2Y	Property	V	$1,000— $10,000
38—50-1 (text unchanged)									
51	**CDS and Paraphernalia** Bringing minor into State to violate drug laws	1-0489	CR, §5-628(a)*(2)*	Felony	20Y		Drug	IIIB	$20,000
52	**CDS and Paraphernalia** Unlawful distribution, manufacture, etc.; counterfeiting, etc., manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, narcotics and hallucinogenics (e.g., PCP, heroin, cocaine, LSD, oxycodone, and methadone)	*1-1118* *1-1119* *1-1120* *1-1121* *1-1122* *1-1123* *1-1124* *1-1125* *1-1126* *1-1127* *1-1128* *1-1129* *1-1131* *1-1132* *1-1133* *1-1556* *1-1557* *1-1558*	CR, §5-608(a) CR, §5-609(a)	Felony	20Y		Drug	IIIB	$15,000
53 (text unchanged)									
53-1	**CDS and Paraphernalia** Knowingly violated CR, §5-602 with a mixture of heroin and fentanyl or any analogue of fentanyl; or fentanyl or any analogue of fentanyl	*1-0908*	CR, §5-608.1	Felony	10Y		Drug	IIIC	
54 (text unchanged)									
54-1	**CDS and Paraphernalia** Unlawful distribution, manufacture, etc.; counterfeiting, etc., manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, MDMA (methylenedioxymethamphetamine), 750 grams or more	*1-1127* *1-1128* *1-1129* *1-1131* *1-1132* *1-1133* *1-1556* *1-1557* *1-1558*	CR, §5-609(a)	Felony	20Y		Drug	IIIA	$15,000
54-2—57 (text unchanged)									
58	**CDS and Paraphernalia** Distribution—distribution of non-controlled substance as controlled dangerous substance	1-0246 **[**7-0000**]**	CR, §5-617	Felony	5Y		Drug	IV	$15,000
58-1—68 (text unchanged)									
69	**CDS and Paraphernalia** Possession—unlawful possession or administering to another, obtaining, etc., substance by fraud, forgery, misrepresentation, etc.; affixing forged labels; altering etc., label—marijuana	*1-1559* *1-1560* *1-1561* *1-1562* *1-1563* *1-1564*	CR, §5-601(c)(2)(i)	Misd.	6M		Drug	VII	$1,000

69-1	**CDS and Paraphernalia** Possession—unlawful possession or administering to another; obtaining, etc., substance by fraud, forgery, misrepresentation, etc.; affixing forged labels; altering etc., label—non-marijuana, 1st offense	*1-1110* *1-1111* *1-1112* *1-1113* *1-1114* *1-1115* *1-1117*	CR, §5-601(c)(1)(i)	Misd.	1Y		Drug	VII	$5,000
69-2—74 (text unchanged)									
75	**CDS—Registration** CDS Registration—unlawful acts	1-0258 1-0259 1-0260 1-0261 1-0262 *1-1445* *1-3550*	CR, §5-902(a)	Misd.	2Y		Drug	VII	$100,000
76—104 (text unchanged)									
104-1	**Counterfeiting** Trademark counterfeiting, less than $1,500	*1-1386*	CR, §8-611(d)	Misd.	1Y		Property	VII	$1,000
104-2 (text unchanged)									
105	**Counterfeiting** Trademark counterfeiting, $1,500 or greater	*1-1385*	CR, §8-611(c)	Felony	10Y		Property	V	$10,000
106—114 (text unchanged)									
114-1	**Credit Card Crimes** Felony credit card crimes, $100,000 or greater	*1-1188* *1-1189* *1-1193* *1-1197* *1-1351* *1-1355*	CR, §8-206(c)(1)(iii) CR, §8-207(b)(1)(iii) CR, §8-209(b)(1)(iii)	Felony	20Y		Property	III	$25,000
114-2	**Credit Card Crimes** Felony credit card crimes, at least $25,000 but less than $100,000	*1-1187* *1-1190* *1-1194* *1-1198* *1-1352* *1-1356*	CR, §8-206(c)(1)(ii) CR, §8-207(b)(1)(ii) CR, §8-209(b)(1)(ii)	Felony	10Y		Property	V	$15,000
114-3	**Credit Card Crimes** Felony credit card crimes, at least $1,500 but less than $25,000	*1-1186* *1-1191* *1-1196* *1-1350* *1-1354* *1-1357*	CR, §8-206(c)(1)(i) CR, §8-207(b)(1)(i) CR, §8-209(b)(1)(i)	Felony	5Y		Property	VI	$10,000
114-4	**Credit Card Crimes** Misdemeanor credit card crimes, at least $100 but less than $1,500	*1-1185* *1-1192* *1-1195* *1-1199* *1-1353* *1-1358*	CR, §8-206(c)(2) CR, §8-207(b)(2) CR, §8-209(b)(2)	Misd.	1Y		Property	VII	$500
115—119 (text unchanged)									
119-1	**Criminal Gang Offenses** Use of or threat of force to coerce participation or prevent leaving gang	*1-1391*	CR, §9-802	Misd.	2Y		Person	VII	$10,000
119-2	**Criminal Gang Offenses** Use of or threat of force to coerce participation or prevent leaving gang in school or within 1,000 feet of school property	*1-1392*	CR, §9-803	Misd.	4Y		Person	VI	$20,000

119-3	**Criminal Gang Offenses** Participate as member of criminal gang in commission of crime; in receipt and use or investment, of proceeds of $10,000 or more from underlying crime in the acquisition of real property or establishment or operation of any enterprise; in acquisition or maintenance of any interest or control of any enterprise or property through an underlying crime	*1-1394* *1-1395* *1-1419* *1-1421* *1-1422* *1-1423*	CR, §9-804(f)(1)(i)	Felony	15Y		Person	One category more serious than most serious underlying offense. If no conviction on underlying offense, category=IV	$1,000,000
119-4	**Criminal Gang Offenses** Participate as member of criminal gang in commission of crime**[**; in receipt and use or investment, of proceeds of $10,000 or more from underlying crime in the acquisition of real property or establishment or operation of any enterprise; in acquisition or maintenance of any interest or control of any enterprise or property through an underlying crime**]**—resulting in death of victim	*1-1417* *1-1418*	CR, §9-804(f)(1)(ii)	Felony	25Y		Person	One category more serious than most serious underlying offense. If no conviction on underlying offense, category=III	$5,000,000
119-5	**Criminal Gang Offenses** Organize, supervise, finance, or manage a criminal gang	*1-1393*	CR, §9-805	Felony	20Y		Person	III	$1,000,000
120—154 (text unchanged)									
154-1	**Fraud, Financial Crimes Against Vulnerable Adults** Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, $100,000 or greater	*1-1390*	CR, §8-801(c)(1)(iii)	Felony	20Y		Property	III	$25,000
154-2	**Fraud, Financial Crimes Against Vulnerable Adults** Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least $25,000 but less than $100,000	*1-1389*	CR, §8-801(c)(1)(ii)	Felony	10Y		Property	V	$15,000
154-3	**Fraud, Financial Crimes Against Vulnerable Adults** Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least $1,500 but less than $25,000	*1-1388*	CR, §8-801(c)(1)(i)	Felony	5Y		Property	VI	$10,000
154-4	**Fraud, Financial Crimes Against Vulnerable Adults** Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, **[**at least $100 but**]** less than $1,500	*1-1387*	CR, §8-801(c)(2)	Misd.	1Y		Property	VII	$500
155—206 (text unchanged)									
206-1	**Identity Fraud** Possess, obtain personally identifying information or willfully assume the identity of another, benefit $100,000 or greater	*1-1359* *1-1366* *1-1370*	CR, §8-301(b), (c) CR, §8-301(g)(1)(iii) (penalty)	Felony	20Y		Property	III	$25,000

206-2	**Identity Fraud** Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least $25,000 but less than $100,000	*1-1360* *1-1367* *1-1371*	CR, §8-301(b), (c) CR, §8-301(g)(1)(ii) (penalty)	Felony	10Y		Property	V	$15,000
206-3	**Identity Fraud** Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least $1,500 but less than $25,000	*1-1361* *1-1368* *1-1372*	CR, §8-301(b), (c) CR, §8-301(g)(1)(i) (penalty)	Felony	5Y		Property	VI	$10,000
206-4	**Identity Fraud** Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least $100 but less than $1,500	*1-1362* *1-1369* *1-1373*	CR, §8-301(b), (c) CR, §8-301(g)(2) (penalty)	Misd.	1Y		Property	VII	$500
206-5	**Identity Fraud** Use a re-encoder or skimming device for purpose of identity theft, benefit $100,000 or greater	*1-1374* *1-1379*	CR, §8-301(d) CR, §8-301(g)(1)(iii) (penalty)	Felony	20Y		Property	III	$25,000
206-6	**Identity Fraud** Use a re-encoder or skimming device for purpose of identity theft, benefit at least $25,000 but less than $100,000	*1-1376* *1-1380*	CR, §8-301(d) CR, §8-301(g)(1)(ii) (penalty)	Felony	10Y		Property	V	$15,000
207	**Identity Fraud** Use a re-encoder or skimming device for purpose of identity theft, benefit at least $1,500 but less than $25,000	*1-1377* *1-1381*	CR, §8-301(d) CR, §8-301(g)(1)(i) (penalty)	Felony	5Y		Property	VI	$10,000
207-1	**Identity Fraud** Use a re-encoder or skimming device for purpose of identity theft, benefit at least $100 but less than $1,500	*1-1378* *1-1382*	CR, §8-301(d) CR, §8-301(g)(2) (penalty)	Misd.	1Y		Property	VII	$500
207-2 (text unchanged)									
207-3	**Identity Fraud** Falsely represent self as another person	*1-1364* *1-1384*	CR, §8-301(c)(1), (f) CR, §8-301(g)(4) (penalty)	Misd.	1Y		Property	VII	$500
207-4	**Identity Fraud** Use an interactive computer service to disclose personal identifying information of an individual in order to annoy, threaten, embarrass, or harass	*1-1363*	CR, §8-301(b-1) CR, §8-301(g)(4) (penalty)	Misd.	1Y		Property	VII	$500
207-5 (text unchanged)									
207-6	**Identity Fraud** Possess, obtain, or help another obtain a re-encoder or skimming device for purpose of identity theft	*1-1383*	CR, §8-301(e) CR, §8-301(g)(4) (penalty)	Misd.	1Y		Property	VII	$500
208—240 (text unchanged)									
241	**Manslaughter and Related Crimes** Manslaughter—involuntary	1-0911	**[**Common law;**]** CR, §2-207	Felony	10Y		Person	IV	$500
242—243-5 (text unchanged)									
243-6	**Manslaughter and Related Crimes** Negligent homicide by motor vehicle or vessel while impaired by CDS, 1st offense	*1-1436*	CR, §2-506(c)(1)	Felony	5Y		Person	V	$5,000
244—276 (text unchanged)									
277	**Murder** 1st degree during rape, etc.	1-0990	**[**Common law;**]** CR, §2-201	Felony	LIFE ♦	LIFE	Person	I	

278	**Murder** 1st degree perpetration of arson	1-0990	**[**Common law;**]** CR, §2-201	Felony	LIFE ♦	LIFE	Person	I	
279	**Murder** 1st degree burning barn, tobacco house, etc.	1-0990	**[**Common law;**]** CR, §2-201	Felony	LIFE ♦	LIFE	Person	I	
280—281 (text unchanged)									
282	**Murder** 2nd degree	*1-1107*	CR, §2-204	Felony	40Y ♦		Person	II	
283	**Murder** 2nd degree, attempted	*2-0920*	CR, §2-206	Felony	30Y ♦		Person	III	
284	**Nudity and Related Sexual Displays** Indecent exposure	1-3605	**[**Common law;**]** CR, §11-107	Misd.	3Y		Person	VI	$1,000
284-1—317-1 (text unchanged)									
318	**Public Fraud** State health plan fraud, resulting in death	2-2125 2-2165 2-2325 2-2365 2-2990 2-2880 2-2930 2-4125 2-2970	CR, §8-509 CR, §8-510 CR, §8-511 CR, §8-512 CR, §8-513 CR, §8-514 CR, §8-515 CR, §8-516*(a)* *(penalty)*	Felony	LIFE		Person	II	$200,000
319	**Public Fraud** State health plan fraud, resulting in serious injury	2-2120 2-2160 2-2320 2-2360 2-2985 2-2875 2-2925 2-4120 2-2965	CR, §8-509 CR, §8-510 CR, §8-511 CR, §8-512 CR, §8-513 CR, §8-514 CR, §8-515 CR, §8-516*(b)* *(penalty)*	Felony	20Y		Person	III	$100,000
320—325 (text unchanged)									
326	**Public Fraud** Sale or purchase of food stamp benefits; or sale or purchase of merchandise with food stamp benefits, **[**greater than**]** $1,000 *or more*		**[**88A, §89(c)(1)**]** *HU, §5-504(c)*	Felony	5Y		Property	VI	$10,000
327—328-1 (text unchanged)									
329	**Public Fraud** Sale or purchase of food stamp benefits; or sale or purchase of merchandise with food stamp benefits, less than $1,000	*1-1505*	**[**88A, §89(c)(2)**]** *HU, §5-504(d)*	Misd.	3Y		Property	VII	$1,000
330—382-1 (text unchanged)									
383	**Theft, Crimes Involving** Felony theft or theft-scheme, $100,000 or greater	*1-1134* *1-1303*	CR, §7-104(g)(1)(iii)	Felony	20Y		Property	III	$25,000
384	**Theft, Crimes Involving** Felony theft or theft scheme, at least $25,000 but less than $100,000	*1-1135* *1-1139*	CR, §7-104(g)(1)(ii)	Felony	10Y		Property	V	$15,000
384-1	**Theft, Crimes Involving** Felony theft or theft scheme, at least $1,500 but less than $25,000	*1-1136* *1-1160*	CR, §7-104(g)(1)(i)	Felony	5Y		Property	VI	$10,000
384-2	**Theft, Crimes Involving** Misdemeanor theft or theft scheme, at least $100 but less than $1,500, 1st offense	*1-1137* *1-1161*	CR, §7-104(g)(2)(i)(1)	Misd.	6M		Property	VII	$500
384-3 (text unchanged)									

384-4	**Theft, Crimes Involving** Misdemeanor theft or theft scheme, less than $1,500, 5th or subsequent offense	**[**1-0621**]** **[**1-0631**]**	CR, §7-104(g)(4)	Misd.	5Y		Property	VI	$5,000
385—420 (text unchanged)									

Footnotes (text unchanged)
General Rules: (text unchanged)

DAVID SOULE
Executive Director

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

Notice of Proposed Action

[17-318-P]

The Maryland Emergency Medical Services Board proposes to amend:

(1) Regulations **.07** and **.09** under **COMAR 30.02.02, Licensure and Certification**;

(2) Regulation **.01** under **COMAR 30.04.01 Definitions**; and

(3) Regulation **.06** under **COMAR 30.04.05 Continuing Education**.

This action was considered by the Maryland Emergency Medical Services Board at its regular meeting on June 13, 2017.

Statement of Purpose

The purpose of this action is to make the renewal and reinstatement process for Cardiac Rescue Technicians consistent with the process for Paramedic renewal and reinstatement as the National Registry of Emergency Medical Technicians is phasing out support for the CRT (EMT-I/99) process. Additionally, there is a change in terminology to reflect the new name of the agency overseeing accreditation of EMS continuing education programs.

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 Rae Oliveira, Director of Licensure and Certification, MIEMSS, 653 West Pratt Street, Baltimore, MD 21201, or call 410-706-3666, or email to roliveira@miemss.org. Comments will be accepted through February 5, 2017. A public hearing has not been scheduled.

Subtitle 02 EMERGENCY MEDICAL SERVICES PROVIDERS

30.02.02 Licensure and Certification

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

.07 Renewal.

A. — E. (text unchanged)

F. If applying for renewal as a CRT the individual shall submit to MIEMSS evidence of:

(1) (text unchanged)

(2) If applying for renewal as a CRT who has completed the CRT update program but **[**did not gain**]** *does not have current active* NREMT-I99 status, documentation of completion of all continuing education and skills proficiency verification requirements equivalent to the standards required for **[**re-registration as an EMT-I/99**]** *renewal as a Paramedic* with the National Registry of Emergency Medical Technicians.

G. — K. (text unchanged)

.09 Reinstatement.

A. (text unchanged)

B. An applicant for reinstatement as an EMS provider shall apply for reinstatement:

(1) — (2) (text unchanged)

(3) As a CRT, **[**at any time if the applicant has current active status registration as EMT-I/99 with the National Registry of Emergency Medical Technicians**]** *not later than 2 years after the expiration of the applicant's CRT licensure*; or

(4) (text unchanged)

C. — E. (text unchanged)

Subtitle 04 EMERGENCY MEDICAL SERVICES EDUCATION PROGRAMS AND COURSES

30.04.01 Definitions

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

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (6) (text unchanged)

(7) **[**"CECBEMS" means the Continuing Education Coordination Board for EMS**]** *"CAPCE" means the Commission on Accreditation for Pre-Hospital Continuing Education*, which is a national organization designed to approve continuing education.

(8) — (31) (text unchanged)

30.04.05 Continuing Education

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

.06 Other Courses.

A. (text unchanged)

B. **[**CECBEMS**]** *CAPCE*-approved continuing education shall be submitted to MIEMSS for approval.

PATRICIA GAINER
Acting Co-Executive Director

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.

ADVISORY COUNCIL ON CEMETERY OPERATIONS

Subject: Public Meeting
Date and Time: January 25, 2018, 10 a.m. — 1 p.m.
Place: Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Deborah Rappazzo (410) 230-6229

[18-01-11]

MARYLAND CYBERSECURITY COUNCIL

Subject: Public Meeting
Date and Time: January 25, 2018, 1 — 2 p.m.
Place: Miller Senate Bldg., 11 Bladen St., West II Rm., Annapolis, MD
Add'l. Info: For agenda, see 'Plenary Council Meetings' at http://www.umuc.edu/mdcybersecuritycouncil
Contact: Greg von Lehmen, marylandcybersecuritycouncil@umuc.edu

[18-01-20]

COMMISSIONER OF FINANCIAL REGULATION

Subject: Bank Merger
Add'l. Info: Bank Hold Company Merger and Bank Merger Applications

On December 15, 2017, Old Line Bank, a Maryland-chartered bank located in Bowie, Maryland, filed an application pursuant to Financial Institutions Article, §3-703, Annotated Code of Maryland, for approval to merge with Bay Bank, FSB, a federal savings bank located in Columbia, Maryland. The surviving institution will be Old Line Bank.

Old Line Bancshares, Inc. (parent company of Old Line Bank) has filed an application pursuant to FI§ 5-903 to merge with Bay Bancorp, Inc., (parent company of Bay Bank) with Old Line Bancshares, Inc. being the surviving entity.

The public file on this application is available at the Office of the Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore, Maryland 21202. Comments regarding this application must be submitted in writing and must be received by the Commissioner within 20 calendar days of the date of publication of this notice in the Maryland Register.

For further information, contact Marcia A. Ryan, Assistant Commissioner, at (410) 230-6104.
Contact: Marcia Ryan (410) 230-6104

[18-01-23]

MARYLAND DEPARTMENT OF HEALTH

Subject: Public Meeting
Date and Time: January 17, 2018, 1 — 3 p.m.
Place: Spring Grove Hospital Campus, Dix Bldg. Basement, Catonsville, MD
Add'l. Info: Call-in Option Available
Contact: Berit Dockter (410) 767-5159

[18-01-03]

MARYLAND INSURANCE ADMINISTRATION

Subject: Public Hearing
Date and Time: February 12, 2018, 1 — 4 p.m.
Place: Maryland Insurance Administration, 200 Saint Paul Pl., 24th Fl. Hearing Rm., Baltimore, MD
Add'l. Info: The Maryland Insurance Administration will conduct a public hearing on specific rate increase requests being made by certain Long-Term Care Insurance carriers operating in Maryland. The hearing will focus on several rate increase requests before the Maryland Insurance Administration. In the individual long-term care market, these include requests from LifeSecure Insurance Company, Transamerica Premier Life Insurance Company, Physicians Mutual Insurance Company, John Hancock Life Insurance Company, and Lincoln Benefit Life Company. The purpose of the hearing is for insurance company officials to explain their reasons for the rate increases. Commissioner Redmer will also listen to comments from stakeholders at the hearing. Prior to the hearing, copies of each company's actuarial memorandum will be posted to the Maryland Insurance Administration's website.

If you plan on attending, please RSVP to Nancy Muehlberger. Written comments and RSVPs should be sent to Nancy Muehlberger by February 5, 2018, either by email to longtermcare.mia@maryland.gov, or by mail to 200 St. Paul Place, Suite 2700, Baltimore, Md. 21202, or by fax to 410-468-2038.

Any questions regarding this matter should be directed to Nancy Muehlberger, Actuarial Analyst, by February 5, 2018, by email to Nancy.Muehlberger@maryland.gov. For more information on the hearing please see the following link:

http://insurance.maryland.gov/Consumer/Pages/Long-Term-Care-Hearing-February-12-2018.aspx
Contact: Adam Zimmerman (410) 468-2048

[18-01-19]

MARYLAND STATE LOTTERY AND GAMING CONTROL COMMISSION

Subject: Public Meeting
Date and Time: January 25, 2018, 10 a.m. — 12 p.m.
Place: Montgomery Park Business Center, 1800 Washington Blvd., Ste. 330, Baltimore, MD
Contact: Kathy L. Lingo (410) 230-8790

[18-01-06]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: January 18, 2018, 1 — 4 p.m.
Place: 4160 Patterson Ave., Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3570

[18-01-01]

DEPARTMENT OF NATURAL RESOURCES/FISHING AND BOATING SERVICES

Subject: Public Notice — Commercial Striped Bass Common Pool Gill Net Season Modification
Add'l. Info: The Secretary of Maryland Department of Natural Resources pursuant to Code of Maryland Regulations (COMAR) 08.02.15.12H announces the opening of the 2018 commercial striped bass common pool gill net fishery on Tuesday, January 2, 2018, at 3 a.m. with a catch limit of 300 lbs/permit/week and 1200 lbs/vessel/day. The common pool

fishery will close on Thursday January 4, 2018, at 11:59 p.m.

Mark J. Belton
Secretary of Natural Resources

Contact: Tamara O'Connell (410) 260-8271

[18-01-22]

DEPARTMENT OF NATURAL RESOURCES/FISHING AND BOATING SERVICES

Subject: Public Notice — 2018 Commercial Atlantic Menhaden Quota and Season — Effective 1/1/18

Add'l. Info: The Secretary of the Maryland Department of Natural Resources, pursuant to the Code of Maryland Regulations (COMAR) 08.02.05.07A, B, and F, announces the quota and season for the commercial Atlantic menhaden fishery. The annual total allowable landings of Atlantic menhaden for Maryland, as established by the Atlantic States Marine Fisheries Commission (ASMFC), are 9,002,733 pounds. The season is January 1, 2018, through December 31, 2018.

The 2018 quota may be adjusted pending final 2017 landings and application of the 1% set aside for the 2018 fisheries. If the quota is adjusted a new notice will be issued.

Mark J. Belton
Secretary of Natural Resources

Contact: Tamara O'Connell (410) 507-0779

[18-01-25]

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Subject: Public Meeting
Date and Time: January 19, 2018, 9 a.m. — 12 p.m.
Place: Spring Grove Hospital Center, 55 Wade Ave. Bland Bryant Bldg., 4th Fl., Catonsville, MD
Add'l. Info: Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46 amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 1-800-735-2255. The meeting may take place by teleconference. Please call the office to confirm.
Contact: Lauren Murray (410) 402-8556

[18-01-17]

STATE ADVISORY COUNCIL ON QUALITY CARE AT THE END OF LIFE

Subject: Public Meeting
Date and Time: January 26, 2018, 10 a.m. — 12 p.m.
Place: Office of Health Care Quality, Bland Bryant Bldg., Spring Grove Campus, Executive Conference Rm., Catonsville, MD
Add'l. Info: The meeting is open to the public. A map and directions may be found here:
https://health.maryland.gov/ohcq/Documents/MapofSpringGrove.jpeg
Contact: Paul Ballard (410) 767-6918

[18-01-02]

RACING COMMISSION

Subject: Public Meeting
Date and Time: January 25, 2018, 12:30 — 1 p.m.
Place: Laurel Park, Laurel, MD
Contact: J. Michael Hopkins (410) 296-9682

[18-01-14]

MARYLAND SEXUAL OFFENDER ADVISORY BOARD

Subject: Public Meeting
Date and Time: January 22, 2018, 10:30 a.m. — 12:30 p.m.
Place: Judiciary Education and Training Center, 2009-D Commerce Park Dr., Annapolis, MD
Contact: Robyn Lyles (410) 585-3185

[18-01-13]

MARYLAND DEPARTMENT OF TRANSPORTATION/OFFICE OF MINORITY BUSINESS ENTERPRISE

Subject: Public Meeting
Date and Time: January 10, 2018, 8:30 a.m. — 5 p.m.
Place: Maryland Department of Transportation, 7201 Corporate Center Dr., Hanover, MD
Add'l. Info: 2018 Meeting Schedule:
January 10; January 24; February 7; February 21; March 7; March 21; April 4; April 18; May 2; May 16; May 30; June 13; June 27; July 11; July 25; August 8; August 22; September 5; September 19; October 3; October 17; October 31; November 14; November 28; December 5; December 19.
Contact: Sabrina Bass (410) 865-1240

[18-01-07]

MARYLAND DEPARTMENT OF TRANSPORTATION/OFFICE OF MINORITY BUSINESS ENTERPRISE

Subject: Public Meeting
Date and Time: February 7, 2018, 8:30 a.m. — 5 p.m.
Place: Maryland Dept. of Transportation, 7201 Corporate Center Dr., Hanover, MD
Contact: Sabrina Bass (410) 865-1240

[18-01-09]

DEPARTMENT OF VETERANS AFFAIRS/MARYLAND VETERANS COMMISSION

Subject: Public Meeting
Date and Time: January 16, 2018, 10:30 a.m. — 1 p.m.
Place: 100 Community Pl., Crownsville, MD
Contact: Denise Nooe (410) 260-3840

[18-01-05]

BOARD OF WELL DRILLERS

Subject: Public Meeting
Date and Time: January 24, 2018, 9 a.m. — 1 p.m.
Place: MDE, 1800 Washington Blvd., Baltimore, MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Elaine Nolen (410) 537-4466

[18-01-04]

WORKERS' COMPENSATION COMMISSION

Subject: Public Meeting
Date and Time: January 11, 2018, 9:30 — 11 a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: Portions of this meeting may be held in closed session.
Contact: Amy Lackington (410) 864-5302

[18-01-15]

WORKERS' COMPENSATION COMMISSION

Subject: Public Meeting
Date and Time: January 25, 2018, 9:30 — 11 a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: Portions of this meeting may be held in closed session.
Contact: Amy Lackington (410) 864-5302

[18-01-16]

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Title 04	General Services	$16	$10	_____	_____
Title 05	Housing and Community Development	$78	$50	_____	_____
Title 07	Human Services	$80	$53	_____	_____
Title 08	Natural Resources	$78	$51	_____	_____
Title 09	Labor, Licensing and Regulation	$89	$60	_____	_____
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Title 15	Agriculture	$48	$30	_____	_____
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Title 18	Assessments and Taxation	$20	$12	_____	_____
Title 19A	State Ethics Commission	$24	$14	_____	_____
Title 20	Public Service Commission	$49	$32	_____	_____
Title 21	State Procurement Regulations	$48	$30	_____	_____
Title 22	State Retirement and Pension System	$22	$13	_____	_____
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Title 27	Critical Area Comm. for the Chesapeake and Atlantic Coastal Bays	$18	$10	_____	_____
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Title 05	Housing and Community Development	$103	$70	_____	_____
Title 07	Human Services	$104	$70	_____	_____
Title 08	Natural Resources	$102	$70	_____	_____
Title 09	Labor, Licensing and Regulation	$116	$75	_____	_____
Title 10	Maryland Department of Health (All Parts)**	$350	$230	_____	_____
Title 10	Part 1 **	$65	$40	_____	_____
Title 10	Part 2 **	$99	$70	_____	_____
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Title 12	Public Safety and Correctional Services	$86	$55	_____	_____
Title 13A	Board of Education	$83	$60	_____	_____
Title 13B	Higher Education Commission	$34	$20	_____	_____
Title 14	Independent Agencies	$103	$70	_____	_____
Title 15	Agriculture	$63	$40	_____	_____
Title 16	Juvenile Service	$32	$20	_____	_____
Title 17	Budget and Management	$38	$25	_____	_____
Title 18	Assessments and Taxation	$28	$18	_____	_____
Title 19A	State Ethics Commission	$33	$20	_____	_____
Title 20	Public Service Commission	$64	$42	_____	_____
Title 21	State Procurement Regulations	$65	$42	_____	_____
Title 22	State Retirement and Pension System	$33	$18	_____	_____
Title 23	Board of Public Works	$26	$15	_____	_____
Title 24	Commerce	$47	$25	_____	_____
Title 25	State Treasurer	$23	$12	_____	_____
Title 26	Environment (All parts) **	$241	$160	_____	_____
Title 26	Part 1 **	$72	$42	_____	_____
Title 26	Part 2 **	$109	$72	_____	_____
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Title 27	Critical Area Comm. for the Chesapeake and Atlantic Coastal Bays	$26	$15	_____	_____
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Title 30	MD Institute for Emergency Medical Services Systems	$34	$20	_____	_____
Title 31	Maryland Insurance Administration	$90	$62	_____	_____
Title 32	Aging	$34	$18	_____	_____
Title 33	State Board of Elections	$57	$35	_____	_____
Title 34	Planning	$42	$25	_____	_____
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Titles 10, 11, and 26 are available in Parts, listed below with Subtitles, and may be purchased separately.

Title 10 Maryland Department of Health

Part 1

01 Procedures
02 Division of Reimbursements
03 Health Statistics
04 Fiscal
05 Freestanding Ambulatory Care Facilities
06 Diseases
07 Hospitals
08 Health Facilities Grants

Part 2

09 Medical Care Programs

Part 3

10 Laboratories
11 Maternal and Child Health
12 Adult Health
13 Drugs
14 Cancer Control
15 Food
16 Housing
17 Swimming Pools and Spas
18 Human Immunodeficiency Virus (HIV) Infection and Acquired Immunodeficiency Syndrome (AIDS)
19 Dangerous Devices and Substances
20 Kidney Disease Program
21 Mental Hygiene Regulations
22 Developmental Disabilities

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24 Maryland Health Care Commission
25 Maryland Health Care Commission
26 Board of Acupuncture
27 Board of Nursing
28 Board of Examiners in Optometry
29 Board of Morticians and Funeral Directors
30 Maryland Commission on Kidney Disease
31 Health Occupation Boards
32 Board of Physicians
33 Board of Examiners of Nursing Home Administrators
34 Board of Pharmacy
35 Postmortem Examiners Commission
36 Board of Examiners of Psychologists

Part 5

37 Health Services Cost Review Commission
38 Board of Physical Therapy Examiners
39 Board of Nursing – Certified Nursing Assistants
40 Board of Podiatric Medical Examiners
41 Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists
42 Board of Social Work Examiners
43 Board of Chiropractic Examiners
44 Board of Dental Examiners
45 Maryland Community Health Resources Commission
46 Board of Occupational Therapy Practice
47 Alcohol and Drug Abuse Administration
48 Child Abuse and Neglect Medical Reimbursement Program
49 State Anatomy Board
50 Tissue Banks
51 Forensic Laboratories
52 Preventive Medicine
53 Board of Nursing – Electrology Practice Committee
54 Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
55 State Board of Spinal Cord Injury Research
56 Board of Dietetic Practice
57 Board for Certification of Residential Child Care Program Professionals
58 Board of Professional Counselors and Therapists
59 Catastrophic Health Emergencies
60 Board of Environmental Health Specialists
61 Health Enterprise Zone Initiative
62 Natalie Laprade Medical Marijuana Commission
63 Community-Based Behavioral Health Programs and Services
64 Practice of Licensed Direct-Entry Midwives
65 Board of Massage Therapy Examiners
66 Office of the Inspector General

Title 11 Department of Transportation

Part 1

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02 Transportation Service Human Resources System
03 Maryland Aviation Administration
04 State Highway Administration
05 Maryland Port Administration
06 Mass Transit Administration
07 Maryland Transportation Authority
08 State Railroad Administration
09 Vacant
10 Vacant

Part 2

11 Motor Vehicle Administration – Administrative Procedures
12 MVA – Licensing of Businesses and Occupations
13 MVA – Vehicle Equipment
14 MVA – Vehicle Inspections
15 MVA – Vehicle Registration
16 MVA – Vehicle Operations
17 MVA – Driver Licensing and Identification Documents
18 MVA – Financial Responsibility Requirements
19 MVA – School Vehicles
20 MVA – Motorcycle Safety Program
21 MVA – Commercial Motor Vehicles
22 MVA – Preventive Maintenance Program
23 MVA – Drivers' Schools, Instructors & Driver Education Program

Title 26 Department of the Environment

Part 1

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03 Water Supply, Sewerage, Solid Waste, and Pollution Control Planning and Funding
04 Regulation of Water Supply, Sewage Disposal, and Solid Waste
05 Board of Well Drillers
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Part 2

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09 Maryland CO_2 Budget Trading Program
10 Oil Pollution and Tank Management
11 Air Quality
12 Radiation Management

Part 3

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14 Hazardous Substance Response Plan
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Part 4

19 Oil and Gas Resources
20 Surface Coal Mining and Reclamation under Federally Approved Program
21 Mining
22 Coastal Facilities Review
23 Nontidal Wetlands
24 Tidal Wetlands
25 Ballast Water Management
26 Community Right-to-Know Fund
27 Hazardous Material Security

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Maryland Register

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