Maryland Register

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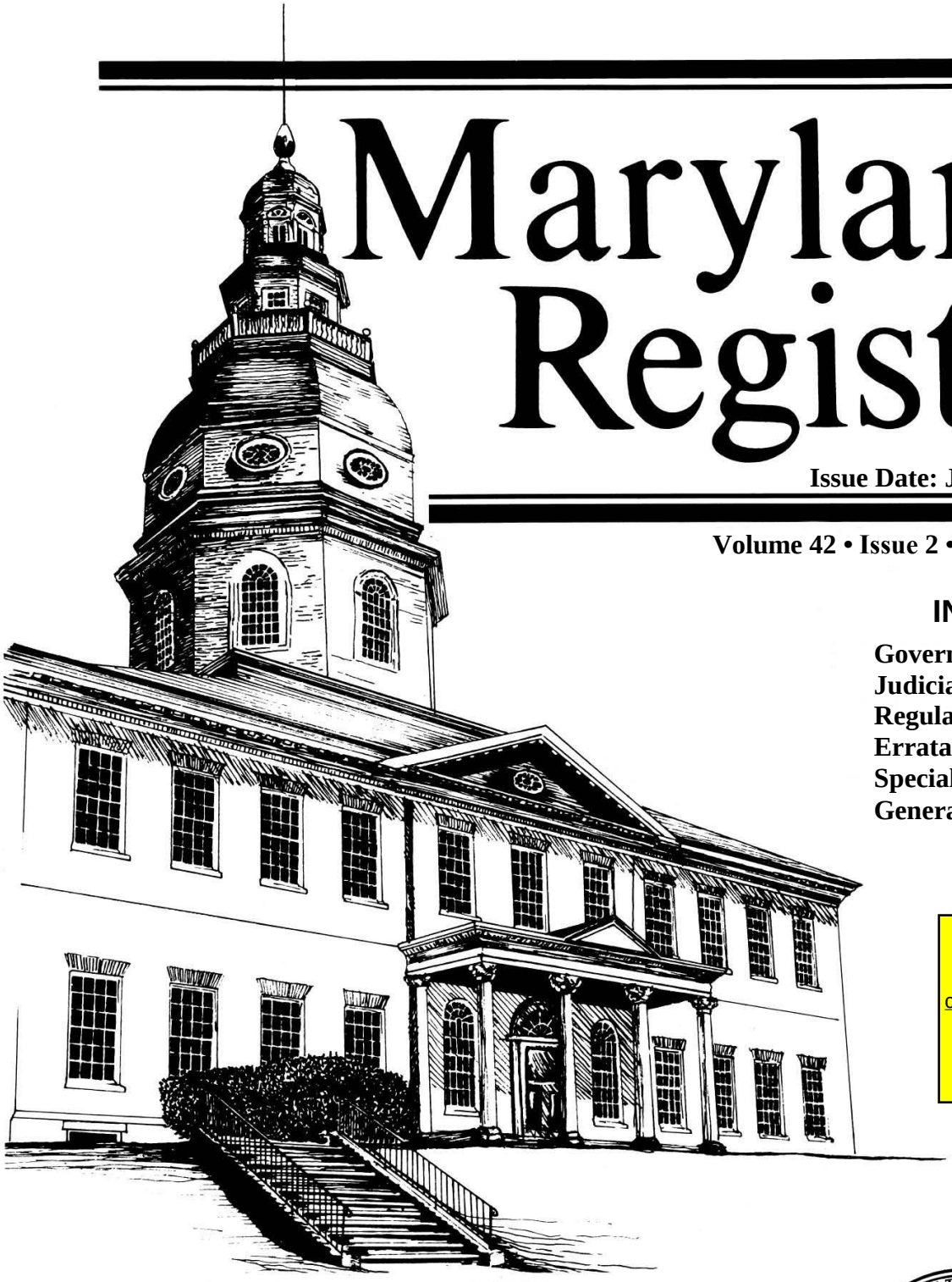

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Notice to Subscribers
See important correction on page 146 of this issue.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before January 5, 2015, 5 p.m.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 January 5, 2015.

Brian Morris
Administrator, Division of State Documents
Office of the Secretary of State

Information About the Maryland Register and COMAR

MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

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

CITATION TO THE MARYLAND REGISTER

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

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

CODE OF MARYLAND REGULATIONS (COMAR)

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

CITATION TO COMAR REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

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

HOW TO RESEARCH REGULATIONS

An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the ''Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed'' which is found online at www.dsd.state.md.us/CumulativeIndex.pdf. This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call 410-260-3876.

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; **Brian Morris**, Administrator; **Gail S. Klakring**, Senior Editor; **Mary D. MacDonald**, Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online, and Subscription Manager; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

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

Illustrations by Carolyn Anderson, Dept. of General Services

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

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

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

Availability of Monthly List of Maryland Documents

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

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

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* 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

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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13A.14.14.01—.07 • 41:26 Md. R. 1595 (12-26-14)

13B MARYLAND HIGHER EDUCATION COMMISSION

13B.02.03.02 • 41:25 Md. R. 1522 (12-12-14)
13B.02.03.03-1 • 42:1 Md. R. 90 (1-9-15)
13B.08.01.01—.10 • 42:1 Md. R. 91 (1-9-15)

14 INDEPENDENT AGENCIES

14.09.15.02 • 41:25 Md. R. 1523 (12-12-14)
14.09.16.03,.13 • 41:25 Md. R. 1523 (12-12-14)
14.26.07.01—.03 • 41:13 Md. R. 773 (6-27-14)
14.31.06.05 • 42:1 Md. R. 93 (1-9-15)
14.31.10.01—.08 • 41:25 Md. R. 1523 (12-12-14)
14.34.02.01—.03 • 41:26 Md. R. 1598 (12-26-14)
14.34.03.01 • 41:26 Md. R. 1599 (12-26-14)
14.34.04.01—.17 • 41:26 Md. R. 1599 (12-26-14)
14.34.05.01—.12 • 41:26 Md. R. 1603 (12-26-14)
14.34.06.01—.04 • 41:26 Md. R. 1605 (12-26-14)

15 DEPARTMENT OF AGRICULTURE

15.14.01.03,.06,.11 • 41:25 Md. R. 1527 (12-12-14)
15.14.05.02 • 41:25 Md. R. 1527 (12-12-14)
15.14.07.02—.08 • 41:25 Md. R. 1527 (12-12-14)
15.14.09.02,.03 • 41:25 Md. R. 1527 (12-12-14)
15.14.10 • 41:26 Md. R. 1614 (12-26-14) (err)
15.14.10.03—.05 • 41:25 Md. R. 1527 (12-12-14)
15.14.12.02 • 41:25 Md. R. 1527 (12-12-14)
15.14.13.03,.11 • 41:25 Md. R. 1527 (12-12-14)
15.15.01.10 • 41:25 Md. R. 1530 (12-12-14)
15.20.04.11 • 41:24 Md. R. 1435 (12-1-14)
15.20.07.02 • 41:24 Md. R. 1432 (12-1-14) (ibr)
15.20.08.01,.03,.05—.12 • 41:24 Md. R. 1432 (12-1-14)

17 DEPARTMENT OF BUDGET AND MANAGEMENT

17.04.13.03,.03-1,.04,.06 • 41:24 Md. R. 1439 (12-1-14)
17.05.01.01—.08 • 42:1 Md. R. 94 (1-9-15)

18 DEPARTMENT OF ASSESSMENTS AND TAXATION

18.03.02.01 • 41:24 Md. R. 1442 (12-1-14)

19A STATE ETHICS COMMISSION

19A.01.03.11 • 41:22 Md. R. 1330 (10-31-14)
19A.03.01.03,.04 • 41:22 Md. R. 1330 (10-31-14)
19A.03.02 • 41:22 Md. R. 1330 (10-31-14)
19A.03.03.01 • 41:22 Md. R. 1330 (10-31-14)
19A.03.04.01—.04 • 41:22 Md. R. 1330 (10-31-14)
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19A.05.04.01,.02 • 41:22 Md. R. 1332 (10-31-14)
19A.07.01.03,.04 • 41:22 Md. R. 1333 (10-31-14)
19A.07.01.18 • 41:22 Md. R. 1334 (10-31-14)

20 PUBLIC SERVICE COMMISSION

20.79.01.02 • 41:24 Md. R. 1443 (12-1-14)

21 STATE PROCUREMENT REGULATIONS

21.05.02.23 • 41:26 Md. R. 1606 (12-26-14)
21.05.08.07 • 41:26 Md. R. 1606 (12-26-14)
21.06.07.01—.09 • 41:26 Md. R. 1606 (12-26-14)
21.07.02.10 • 41:26 Md. R. 1606 (12-26-14)
21.11.07.01,.05,.09 • 41:26 Md. R. 1606 (12-26-14)
21.11.13.05 • 41:26 Md. R. 1606 (12-26-14)
21.11.14.04 • 41:14 Md. R. 857 (7-11-14)
21.13.01 • 42:1 Md. R. 120 (1-9-15) (err)
21.13.01.11,.12,.14 • 41:26 Md. R. 1606 (12-26-14)

24 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

24.05.21.01—.13 • 42:2 Md. R. 244 (1-23-15)

26 DEPARTMENT OF THE ENVIRONMENT

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26.04.11.01—.16 • 41:25 Md. R. 1531 (12-12-14)

Subtitles 08—12 (Part 2)

26.11.19.26,.26-1 • 41:24 Md. R. 1443 (12-1-14)
26.11.34.02 • 41:24 Md. R. 1447 (12-1-14) (ibr)
26.11.38.01—.06 • 41:24 Md. R. 1449 (12-1-14)
26.12.01.01 • 41:22 Md. R. 1336 (10-31-14)

Subtitles 13—18 (Part 3)

26.13.01.03,.05 • 42:2 Md. R. 247 (1-23-15)
26.13.02.03,.04,.04-6,.16,.17,.19-6,.19-7,.19-8, .25 • 42:2 Md. R. 247 (1-23-15)
26.13.10.11 • 42:2 Md. R. 247 (1-23-15)
26.14.02.02,.02-1,.02-2,.02-3,.02-4, .02-5 • 41:22 Md. R. 1337 (10-31-14) (ibr)
26.16.01.01—.05,.07—.20 • 42:2 Md. R. 254 (1-23-15)

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26.19.01.01—.58 • 42:1 Md. R. 94 (1-9-15) (ibr)

29 DEPARTMENT OF STATE POLICE

29.01.05.01—.05 • 42:2 Md. R. 264 (1-23-15)

30 MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

30.08.01.02 • 42:2 Md. R. 265 (1-23-15)
30.08.12.01—.15 • 42:2 Md. R. 265 (1-23-15)

31 MARYLAND INSURANCE ADMINISTRATION

31.03.05.01—.15 • 41:3 Md. R. 256 (2-7-14)
31.04.14.03 • 42:1 Md. R. 116 (1-9-15)
31.10.21.02-1 • 42:2 Md. R. 271 (1-23-15)
31.10.42.01—.04 • 42:1 Md. R. 117 (1-9-15)
31.11.01.03 • 42:1 Md. R. 118 (1-9-15)
31.11.02.08 • 42:1 Md. R. 118 (1-9-15)
31.11.03.08 • 42:1 Md. R. 118 (1-9-15)
31.11.04.08 • 42:1 Md. R. 118 (1-9-15)
31.11.05 • 42:1 Md. R. 118 (1-9-15)
31.12.01 • 42:2 Md. R. 272 (1-23-15)
31.12.03.02 • 42:2 Md. R. 272 (1-23-15)
31.12.04.02,.04 • 42:2 Md. R. 272 (1-23-15)
31.12.05.02 • 42:2 Md. R. 272 (1-23-15)
31.12.06 • 42:2 Md. R. 272 (1-23-15)
31.12.07.04,.05 • 42:2 Md. R. 272 (1-23-15)
31.13.01.04,.09,.13,.17,.24 • 42:2 Md. R. 274 (1-23-15)
31.13.03.19 • 42:2 Md. R. 274 (1-23-15)

33 STATE BOARD OF ELECTIONS

33.13.10.01—.03 • 41:25 Md. R. 1544 (12-12-14)
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33.14.02.06 • 41:16 Md. R. 955 (8-8-14)

34 DEPARTMENT OF PLANNING

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36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

36.01.01.04 • 41:24 Md. R. 1454 (12-1-14)
36.01.02.01 • 42:2 Md. R. 275 (1-23-15)
36.03.03.07 • 41:24 Md. R. 1455 (12-1-14)
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36.04.01.20 • 41:24 Md. R. 1455 (12-1-14)
36.05.02.16 • 41:24 Md. R. 1455 (12-1-14)
36.05.03.03,.05,.23 • 41:24 Md. R. 1457 (12-1-14)
36.05.04.02,.06,.13 • 42:2 Md. R. 276 (1-23-15)
36.05.18.01—.13 • 42:2 Md. R. 277 (1-23-15)
36.06.01.01—.03 • 41:12 Md. R. 723 (6-13-14)
36.06.02.01,.02 • 41:12 Md. R. 723 (6-13-14)
36.06.03.01—.09 • 41:12 Md. R. 723 (6-13-14)
36.06.04.01—.04 • 41:12 Md. R. 723 (6-13-14)
36.06.05.01—.06 • 41:12 Md. R. 723 (6-13-14)
36.06.06.01 • 41:12 Md. R. 723 (6-13-14)

The Governor

EXECUTIVE ORDER 01.01.2015.07

Standards of Conduct for Executive Branch Employees and Reporting of Misconduct

(Rescinds Executive Order 01.01.2007.01)

WHEREAS, Everyone who enters into public service for the State of Maryland has a duty to maintain the highest standards of integrity in Government;

WHEREAS, Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain;

WHEREAS, Marylanders have the right to expect honest and honorable conduct in the performance of State business, free of the existence or perception of any corruption or other misconduct;

WHEREAS, It is imperative that any criminal or unethical conduct by any State employee or contractor be promptly reported to the appropriate authorities for investigation; and

WHEREAS, All Maryland State employees, regardless of position or pay, and all State contractors should act in accordance with both letter and spirit of the laws and regulations of this State.

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY RESCIND EXECUTIVE ORDER 01.01.2007.01 AND PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

An employee shall not, except as permitted by applicable law or regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

Employees shall exhibit exemplary conduct and use honest efforts in the performance of their duties.

Employees shall not hold financial interests that conflict with the conscientious performance of duty.

Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

Employees shall act impartially and not give preferential treatment to any private organization or individual.

Employees shall protect and conserve State property and shall not use it for other than authorized activities.

Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, which conflict with official Government duties and responsibilities.

Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

Employees shall satisfy in good faith their civic and legal obligations, including payment of federal, State, or local taxes that are imposed by law.

Employees shall adhere to all applicable laws and regulations that provide equal opportunity for all Marylanders regardless of race, color, religion, gender, national origin, age, disability, or sexual orientation.

Employees shall endeavor to avoid any actions creating the appearance of any impropriety or that violate applicable laws, regulations, and ethical standards.

Employees shall conduct intra-agency and interagency relations with civility, collaboration, and cooperation. These same principles shall apply to interactions with officials and employees of the legislative and judicial branches.

Upon leaving state service, executive branch employees shall be bound by the restrictions of the Annotated Code of Maryland, State Government Article, Section 15-504, with respect to lobbying and other forms of representation.

All departments and agencies of the State shall immediately refer to the Principal or Deputy Counsel of the department or agency or to the Deputy Attorney General with supervisory responsibility for the Attorney General's Criminal Investigations Division, any instance of possible criminal or unethical conduct by any employee or contractor of this State, for such action as the Office of the Attorney General deems appropriate. All departments and agencies shall also immediately advise the Chief Legal Counsel to the Governor of any such referrals.

All departments and agencies shall require each employee to report to the Secretary or Director of such department or agency as to any arrest of an employee and as to each legal proceeding in which an employee is involved, as a party or otherwise, if the arrest or legal proceeding affects, or reflects on, the employee's job fitness or performance.

Consistent with all applicable substantive and procedural laws, violations of this Executive Order are grounds for employee disciplinary action, including termination from State employment.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 21st Day of January, 2015

LAWRENCE J. HOGAN, JR.
Governor

ATTEST:

JOHN C. WOBENSMITH
Acting Secretary of State

[15-02-53]

The Judiciary

COURT OF APPEALS OF MARYLAND

DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of the Court dated November 7, 2014, **LEONARD S. BLONDES**, 7100 Crail Drive, Bethesda, Maryland 20817, has been disbarred by consent, effective January 6, 2015, 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 16-772(d)).

* * * * * * * * * *

This is to certify that by an Order of the Court dated December 10, 2014, **KENNETH HALEY**, 6801 Oak Hall Lane, P.O. Box 26, Columbia, Maryland 21045, has been indefinitely suspended by consent, effective January 1, 2015, 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 16-772(d)).

* * * * * * * * * *

This is to certify that the name **MATTHEW STROHM EVANS, JR.**, 412 Broadneck Road, Annapolis, Maryland 21409, has been replaced upon the register of attorneys in the Court of Appeals as of January 8, 2015 having subscribed to the oath of attorneys, in compliance with the Order of Court filed December 17, 2014. Notice of this action is certified in accordance with Maryland Rule 16-781(l).

[15-02-51]

NOTICE TO MEMBERS OF THE MARYLAND BAR

The following banks have been approved by the Attorney Grievance Commission of Maryland to receive escrow accounts of attorneys under the Chapter 600 Rules on Attorney Trust Accounts (formerly BU Rules) effective January 1, 1989. If your bank does not appear on this list, we suggest you contact it immediately.

(Revised January 7, 2015)

APPROVED INSTITUTIONS

Access National Bank
Amalgamated Bank
American Bank
Bank of America
Bank of Charles Town
Bank of Delmarva
Bank of Georgetown
Bank of Glen Burnie
Bank of Ocean City
Bay Bank
Bay-Vanguard Federal Savings Bank
BB&T
BlueRidge Bank
Burke & Herbert Bank & Trust Company
Calvin B. Taylor Banking Company, Inc.
Capital Bank
Capital One Bank
Cardinal Bank, N.A.
Carroll Community Bank
Cecil Bank
Centreville National Bank of Maryland
CFG Community Bank
Chain Bridge Bank, NA
Chesapeake Bank & Trust Company
Chesapeake Bank of Maryland
Citibank, N.A.
ColomboBank
Columbia Bank
Community Bank of the Chesapeake
Congressional Bank
County First Bank
Damascus Community Bank
EagleBank
Eastern Savings Bank
Easton Bank & Trust
Essex Bank
Farmers Bank of Willards
Farmers & Merchants Bank
First Citizens Bank
First Mariner Bank
First National Bank of Pennsylvania
First Shore Federal Savings & Loan
First United Bank & Trust
First Virginia Community Bank
Fraternity Federal Savings & Loan Association
Frederick County Bank
Hamilton Bank
Harbor Bank of Maryland
Harford Bank
Hebron Savings Bank
Hopkins Federal Savings Bank
Howard Bank
HSBC Bank USA, N.A.
Industrial Bank
Jefferson Security Bank
John Marshall Bank
Madison Square Federal Savings
MainStreet Bank
M & T
Middletown Valley Bank
Midstate Community Bank
Monument Bank
National Bank of Cambridge
National Capital Bank of Washington
National Penn Bank
New Windsor State Bank
Northwest Savings Bank
Old Line Bank
Orrstown Bank
Patapsco Bank
Peoples Bank
Peoples Bank, A Codorus Valley Co.
PNC Bank
Premier Bank, Inc.
Presidential Bank
Provident State Bank
Queenstown Bank of Maryland
Regal Bank & Trust
Revere Bank
Sandy Spring Bank
Santander Bank, N.A.
Severn Savings Bank, FSB

Shore Bank
Sonabank, N.A.
Standard Bank
SunTrust
Susquehanna Bank
Sykesville Federal Savings Bank
Talbot Bank
TD Bank
United Bank
Virginia Commerce Bank
Virginia Partners Bank
Washington First Bank
Wells Fargo Bank, N.A.
Woodsboro Bank

The following banks have either terminated their agreement, merged with another bank, or had their agreement terminated since the previous list was published.

NBRS Financial
OBA Bank
Prince George's Federal Savings Bank

[15-02-38]

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.

IMPORTANT CORRECTION
COMAR 26.12.01

In the Notice of Final Action docketed as [14-320-F] in 42:1 Md. R. 19 (January 9, 2015), the proposed amendments to Regulation **.01** under **COMAR 26.12.01 Radiation Protection** were adopted prematurely by the Department of the Environment. Those amendments are still pending.

Withdrawal of Regulations

Title 09
DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 12 DIVISION OF LABOR AND INDUSTRY

09.12.81 Elevator, Escalator, and Chairlift Safety

Authority: Public Safety Article, §§12-805, 12-806, 12-809, and 12-812, Annotated Code of Maryland

Notice of Withdrawal

[14-082-W]

The Commissioner of Labor and Industry withdraws the proposal to amend Regulation **.01-1** and adopt new Regulation **.02-1** under **COMAR .09.12.81 Elevator, Escalator, and Chairlift Safety**, as published in 41:7 Md. R. 425 (April 4, 2014).

J. RONALD DEJULIIS
Commissioner of Labor and Industry

Title 11
DEPARTMENT OF TRANSPORTATION

Subtitle 03 MARYLAND AVIATION ADMINISTRATION

11.03.01 Baltimore/Washington International Thurgood Marshall Airport

Authority: Transportation Article, §§5-204, 5-208, and *5-415*, Annotated Code of Maryland

Notice of Withdrawal

[13-423-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to adopt new Regulation **.13** under **COMAR 11.03.01 Baltimore/Washington International Thurgood Marshall Airport**, which was published in 40:26 Md. R. 2195—2196 (December 27, 2013), has been withdrawn by operation of law.

BRIAN MORRIS
Administrator
Division of State Documents

Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 07
DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.07 Child Protective Services — Investigation of Child Abuse and Neglect

Authority: Family Law Article §5-701 et seq.; Human Services Article, §§1-202, 1-203, 4-202, and 4-207; Annotated Code of Maryland
(Agency Note: 42 U.S.C. 5106a(b)(2); 45 CFR §1340.20)

Notice of Proposed Action

[15-067-P]

The Secretary of the Department of Human Resources proposes to amend Regulations **.01 — .13**, adopt new Regulations **.14 — .17**, repeal existing Regulations **.16** and **.23**, and amend and recodify existing Regulations **.14**, **.14C**, **.15**, and **.17—.22** to be Regulations **.18**, **.19**, **.20**, and **.21—.26**, respectively, under **COMAR 07.02.07 Investigation of Child Abuse and Neglect**.

Statement of Purpose

The purpose of this action is to incorporate several new statutory changes and add clarifying language. Alternative response assessments were added as another option for responding to reports of child abuse and neglect. This new type of response caused changes to the eligibility for Child Protective Services (CPS). How to conduct and complete the alternative response was added to this chapter. Guidelines were also provided on the expungement of alternative response records.

New language was added to the confidentiality section to allow health practitioners and certain members of higher education access to child protective services information. Guidelines were also added regarding the Department releasing information on fatalities and near fatalities.

The definition of a maltreator was clarified as well as the criteria CPS may use to determine if a minor should be identified as a maltreator. The right of individuals who are not identified as a maltreator to appeal was added to reflect Office of Administrative Hearings' decisions on indicated or unsubstantiated investigations. Language was added to include grooming a child for a sexual relationship as an element of sexual abuse as well as expanding on the definition of caregiver to include any individual engaging in human sex trafficking.

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 Andrea Shuck, Regulations Coordinator, Department of Human Resources, 301 W. Saratoga St., Rm. 265, Baltimore, MD 21201, or call 410-767-7193, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Purpose and Scope.

A. The purpose of Child Protective Services (CPS) is to stop and prevent child abuse and neglect through the:

(1) Investigation of child abuse and neglect;

(2) Comprehensive assessment of:

(a) Risk of harm to children;

(b) Risk of subsequent abuse or neglect; and

(c) Family strengths and needs; and

[(2)**]** *(3)* Initiation of *or referrals to* protective and other services for:

(a)—(b) (text unchanged)

(c) Household or family members of abused or neglected children**[**; and**]**.

[(3) Investigation of a substantial risk of child sexual abuse by a registered child sexual offender.**]**

B. The goals of CPS are to:

(1) Promptly investigate reports of child abuse and neglect **[**and of a substantial risk of child sexual abuse by a registered child sexual offender**]**;

(2) In certain low risk reports of abuse or neglect, promptly initiate a comprehensive family assessment;

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

[(4)**]** *(5)* Create and maintain accurate reports and records that can serve as tools in providing services and in conducting subsequent investigations *or assessments.*

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Alleged abuser" means an individual **[**found by**]** *reported to* a local department **[**to have been**]** *as* responsible for the abuse of a child.

(3) "Alleged neglector" means an individual **[**found by**]** *reported to* a local department **[**to have been**]** *as* responsible for the neglect of a child.

(4) "Alternative Response" means a component of Child Protective Services that provides for comprehensive assessment of:

(a) Risk of harm to a child;

(b) Risk of subsequent child abuse or neglect;

(c) Family strengths and needs; and

(d) The provision of or referral for necessary services.

[(4)**]** *(5)* **[**Caretaker**]** *Caregiver*.

(a) "**[**Caretaker**]** *Caregiver*" means an individual who has**[**,or is known to a child through having had,**]** permanent or temporary care, custody, or responsibility for supervision of the child.

(b) "**[**Caretaker**]** *Caregiver*" includes, but is not limited to, a stepparent, foster parent, guardian, custodian, or employee or volunteer in a facility or program caring for a child.

(c) "Caregiver" includes, in cases of human trafficking, any individual engaged in trafficking a minor or otherwise controlling a child.

[(5)**]** *(6)* "Central registry" means the component of the Department's Client Information System (CIS) or **[**other confidential computerized database**]** *MD CHESSIE* that contains information regarding child abuse and neglect investigations *and is available to every local department.*

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

[(7)**]** *(8)*"Child abuse" means one or more of the following by a parent, **[**caretaker**]** *caregiver*, or household or family member:

(a)—(b) (text unchanged)

[(8)**]** *(9)* "Child neglect" means one or more of the following by a parent or **[**caretaker**]** *caregiver*:

(a) A failure to provide proper care and attention to a child, including leaving a child unattended, under circumstances that indicate that the child's health or welfare **[**is**]** *was* harmed or placed at substantial risk of harm; or

(b) (text unchanged)

[(9)**]** *(10)* "**[**Children**]** *Child* in need of assistance (CINA)" has the meaning defined in Courts and Judicial Proceedings Article, §3-801(f), Annotated Code of Maryland.

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

[(10-1)**]** *(12)* "CPS unit" means that unit of a local department responsible for **[**investigating**]** *responding to* reports of **[**suspected**]** child abuse or neglect.

(13) "CPS response" means an investigation or assessment conducted pursuant to Family Law Article, §5-706, Annotated Code of Maryland.

[(11)**]** *(14)*—**[**(12)**]** *(15)(text unchanged)*

[(12-1) "Drug-exposed newborn" means an infant younger than 30 days old:

(a) Who has a positive toxicology screen for illegal substances as evidenced by any appropriate test after birth;

(b) Who has symptoms of withdrawal from, or of exposure to, illegal substances as determined by medical personnel; or

(c) Whose mother had a positive toxicology screen for illegal substances upon admission to the hospital or at the time of delivery.**]**

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

[(14)**]** *(17)* Failure to **[**Give**]** *Provide* Proper Care and Attention.

(a) "Failure to **[**give**]** *provide* proper care and attention" means the omission of proper care or attention or the provision of improper care or attention.

(b) "Failure to **[**give**]** *provide* proper care and attention" includes leaving a child unattended.

[(15)**]** *(18)*—**[**(16)**]** *(19)* (text unchanged)

(20) "Grooming a child for a sexual relationship" means the forming of a closer relationship with the intent of using it for subsequent inappropriate sexual contact.

[(17)**]** *(21)* "Health *care* practitioner" **[**means an individual who is authorized to practice healing under**]** *has the meaning stated in* Health Occupations Article, *§1-301,* Annotated Code of Maryland.

[(18)**]** *(22)* "Household" means the location in which a child or **[**caretaker**]** *caregiver* resides.

[(19)**]** *(23)*—**[**(20)**]** *(24)* (text unchanged)

(25) "Identify an individual as responsible for child abuse or neglect in a central registry" means entering a notation listed in a central registry to make clear that the individual has been determined by a local department to be responsible for indicated child abuse or neglect under circumstances specified in Family Law Article, §5-714, Annotated Code of Maryland.

[(21) Identifying Information.

(a)**]** *(26)* "Identifying information" means **[**information relating to the identity of an individual associated with a report of child abuse or neglect.

(b) "Identifying information" includes, but is not limited to,**]** the name of:

[(i)**]** *(a)* **[**The**]** *A* child **[**who is**]** alleged to have been abused or neglected;

[(ii)**]** *(b)* A member of the *child's* household;

[(iii)**]** *(c)* A parent or legal guardian of the child; or

[(iv)**]** *(d)* An individual **[**suspected of being**]** *alleged to be* responsible for child abuse or neglect.

[(22)**]** *(27)* "Indicated" means a finding that there is credible evidence, which has not been satisfactorily refuted, that abuse or neglect occurred.

[(23)**]** *(28)* "Law enforcement agency" means a **[**State, county, or municipal**]** police department, bureau, or agency **[**which includes**]** *including* but **[**is**]** not limited to**[**, a**]**:

(a) *A federal,* State, county, or municipal police department or agency;

(b) *A* Sheriff's office;

(c) *A* State's Attorney's office; and

(d) *The* Attorney General's office.

[(24)**]** *(29)* "Local department" means the department of social services, or the Montgomery County Department of Health and Human Services, that has jurisdiction in a county or Baltimore City to investigate, *assess* or assist in the investigation *or assessment* of a report of **[**suspected**]** *alleged* abuse or neglect.

[(25)**]** *(30)* "Local department case file" means the component of **[**the Department's confidential computerized database**]** *MD CHESSIE* that contains information regarding child abuse and neglect investigations *or assessments* to which access is limited to the *staff of* the local department **[**staff**]** responsible for the **[**investigation**]** *CPS response.*

[(26)**]** *(31)* (text unchanged)

[(27)**]** *(32)* "Maltreator" means an individual **[**who has abused or neglected a child**]** *found responsible by a local department for indicated or unsubstantiated child abuse or neglect.*

[(28)**]** *(33)*—**[**(29)**]** *(34)* (text unchanged)

[(30)**]** *(35)* "Multidisciplinary case consultation team" means a group of professionals convened regularly or as needed by a local department or the Administration to consult regarding investigation, *assessment*, service, or treatment of a child or family.

[(31)**]** *(36)* (text unchanged)

[(32)**]** *(37)* "Police officer" means any *federal*, State, or local officer who is authorized to make arrests as part of the officer's official duty.

[(33)**]** *(38)*—**[**(34)**]** *(39)* (text unchanged)

[(35)**]** *(40)* "Receiving a report" means obtaining sufficient information to initiate **[**an**]** *a* **[**investigation**]** *CPS response.*

[(36)**]** *(41)* Record.

(a) "Record" means the original or a copy of documentary material, in any form, concerning **[**an investigation of suspected**]** *a CPS response to* child abuse or neglect.

(b) "Record" includes a report of **[**suspected**]** child abuse or neglect received by or from a state, county, or municipal corporation in a state, or any subdivision or agency.

[(37-1)**]** *(42)*—**[**(40)**]** *(45)* (text unchanged)

[(41)**]** *(46)* "Sexual abuse" means any act that involves sexual molestation or exploitation of a child, *including grooming a child for a sexual relationship.*

[(42)**]** *(47)* Sexual Molestation or Exploitation.

(a) (text unchanged)

(b) "Sexual molestation or exploitation" includes, but is not limited to:

(i)—(ii) (text unchanged)

(iii) Allowing, encouraging, or engaging in obscene or pornographic display, photographing, filming, or depiction of a child in a manner prohibited by law; or

(iv) Human trafficking.

[(43) "Substantial risk of child sexual abuse" means a likelihood that child sexual abuse will occur.**]**

[(44)**]** *(48)* "Substantial risk of harm" means a foreseeable risk of harm to a child during alleged **[**child abuse or neglect**]** *maltreatment.*

[(45) "Suspected abuser" means an individual reported to or suspected by a local department as having been responsible for abuse of a child.

(46) "Suspected neglector" means an individual reported to or suspected by a local department as having been responsible for neglect of a child.**]**

[(47)**]** *(49)* (text unchanged)

(50) "Victim" means a child who has been abused or neglected.

.03 Eligibility for Child Protective Services (CPS).

A. The following, regardless of economic circumstances, are eligible for *a* CPS *response*:

(1) The **[**child suspected of being abused or neglected**]** *alleged victim*;

(2)—(3) (text unchanged)

B. A disabled infant with a life-threatening condition who does not receive appropriate nutrition, hydration, medication, or medical care is eligible for *a* CPS *response* as a neglected child, as defined by 42 U.S.C. §5106g.

C. **[**A drug-exposed newborn infant, younger than 30 days old, is eligible for CPS if medical or social work hospital staff suspects the child is at substantial risk of harm**]** *Low risk reports of child abuse or neglect are eligible for an alternative response.*

D. A report that is not assigned for an alternative response shall be assigned for investigation.

E. Reports that are not eligible for an alternative response are:

(1) Sexual abuse; and

(2) Abuse or neglect:

(a) Occurring in an out-of-home placement;

(b) Resulting in death or serious physical or mental injury;

(c) If, in the previous 3 years, the alleged maltreator has been identified as responsible for abuse or neglect as documented in the records of the local department; or

(d) If the alleged maltreator has had one report assigned for an alternative response within the past 12 months or 2 reports assigned for an alternative response within the past 24 months.

F. A report assigned for an alternative response may be reassigned at any time for an immediate investigation based on any of the following factors and circumstances:

(1) A reassessment of the report or relevant facts;

(2) A determination that the case satisfies a criterion in subsection E. of this regulation; or

(3) A family's inability or refusal to participate in the alternative response assessment.

G. A report assigned for an investigation may be reassigned for an alternative response at any time based on:

(1) A reassessment of the report or relevant facts that demonstrate that the case meets the criteria for an alternative response;

(2) A determination that accepted services would address all issues of risk of abuse or neglect and child safety; and

(3) Approval by a caseworker supervisor.

[D.**]** *H.* As required by COMAR 07.02.04.07E, if a parent, guardian, or custodian is unwilling to apply in writing for **[**CPS**]** *an investigation* on the form prescribed by the Administration, the local department may note the refusal and sign the form.

[E. If a local department provides services such as homemaker, day care, or legal services as part of a service plan of protective services for children, the local department shall determine eligibility for these services or for any applicable waiver of fees under COMAR 07.02.04.**]**

.04 Reporting [Suspected] Child Abuse or Neglect.

A. (text unchanged)

B. Mandated Reporters.

(1) A health practitioner, educator, human service worker, or police officer shall report **[**suspected**]** child abuse or neglect:

(a) (text unchanged)

(b) In writing, within 48 hours of the contact that revealed the **[**suspected**]** abuse or neglect.

(2)—(3) (text unchanged)

C. An employee of a local department who, in the course of employment, receives a report of **[**suspected child abuse or neglect**]** *alleged maltreatment* communicated formally or informally to the employee, or who otherwise has reason to suspect that child **[**abuse or neglect**]** *maltreatment* has occurred, shall immediately report the information to the CPS unit within the local department for *a* prompt **[**investigation**]** *CPS response.*

D. A report shall include as much of the following information the individual making the report is able to provide:

(1)—(5) (text unchanged)

(6) Other information that:

(a) (text unchanged)

(b) Assists in identifying **[**the individual or individuals responsible for the abuse or neglect**]** *a maltreator*; or

(c) Relates to the identification of *the* risk *and safety of a child*; and

(7) In the case of **[**suspected**]** *alleged* child abuse or neglect involving a mental injury:

(a)—(b) (text unchanged)

E. An individual is not required to report **[**suspected**]** child abuse or neglect in violation of:

(1) (text unchanged)

(2) The privilege described in Courts and Judicial Proceedings Article, §9-111, Annotated Code of Maryland, pertaining to communications **[**to a minister of the gospel, clergyman, priest, or rabbi of an established church of any denomination received in a professional capacity under circumstances where the professional is bound to maintain the confidentiality of that communication**]** *that are confidential* under canon law, **[**church**]** *religious* doctrine, or practice.

.05 Receiving Reports of [Suspected] Child Abuse or Neglect.

A. The local department shall receive reports of **[**suspected child abuse or neglect**]** *alleged maltreatment* from any source including local department staff.

B. Each local department shall establish a process for ensuring that a report of **[**suspected child abuse or neglect**]** *alleged maltreatment* from any source is immediately directed to the CPS unit within the local department.

C. On-Call Staff.

(1) Each local department shall have staff on-call 24 hours a day, 7 days a week, to receive and take appropriate action on reports of **[**suspected child abuse and child neglect**]** *alleged maltreatment*.

(2) The local department shall ensure that the public has a means of **[**access to staff who are on-call after**]** *making reports outside of* normal office hours.

D. If a local department receives a report of **[**suspected child abuse or neglect**]** *maltreatment* alleged to have occurred in Maryland, it shall:

(1)—(2) (text unchanged)

(3) Immediately notify the local law enforcement agency of a report accepted for **[**investigation**]** *a CPS response*; and

(4) (text unchanged)

E. **[**Suspected Abuse or Neglect**]** *Maltreatment* Alleged to Have Occurred Outside of the State.

(1) If **[**suspected abuse or neglect**]** *maltreatment* is alleged to have occurred outside of the State and the victim is currently a child who lives outside of the State, a person who would be required to report **[**suspected abuse or neglect**]** *alleged maltreatment* notwithstanding provisions in Family Law Article, §5-704 or 5-705, Annotated Code of Maryland, shall report the **[**suspected abuse or neglect**]** *alleged maltreatment* to any local department in accordance with §B of this regulation.

(2) Promptly after receiving a report of **[**suspected abuse or neglect**]** *alleged maltreatment* under this section, the local department shall forward the report to the appropriate agency outside of this State that is authorized to receive and investigate reports of **[**suspected abuse or neglect**]** *maltreatment*.

F. If a reported incident of **[**suspected child abuse or neglect**]** *maltreatment* does not meet the definition of child abuse or neglect defined in Regulation .02B of this chapter, the local department may:

(1) Decline to initiate **[**an investigation**]** *a CPS response*;

(2) (text unchanged)

(3) **[**On forms created or approved by the Administration, maintain**]** *Maintain* a record of nonidentifying information including:

(a) (text unchanged)

(b) The reason for not accepting the report for **[**investigation**]** *a CPS response*.

G. If a report of **[**suspected child abuse or neglect**]** *maltreatment* arises from the failure of a voluntary placement agreement involving a child with disabilities, where a reasonable fear for the safety of the child or family members is not supported by diagnostic evidence, family history, or current circumstances, a local department shall **[**take appropriate action to determine whether abuse or neglect exists and notwithstanding provisions in Family Law Article, §5-714, Annotated Code of Maryland, shall identify an individual responsible for alleged abuse or neglect**]** *initiate an appropriate CPS response*.

H. If the local department receives a report of **[**suspected child abuse or neglect**]** *alleged maltreatment* based on information that the reporter knew to be false at the time of the report, the local department shall, upon completion of the **[**investigation**]** *CPS response*, refer the reporter to the local State's Attorney's office for possible prosecution under Criminal Law Article, §9-503, Annotated Code of Maryland.

.06 Initial Response to a Report of [Suspected] Child Abuse or Neglect.

A. A time period established in this regulation starts when the local department has sufficient information to begin **[**an investigation**]** *a CPS response*, regardless of the form in which that information is received.

B. (text unchanged)

C. The local department shall enter identifying information into **[**MD CHESSIE, CIS**]** *the central registry* and, as **[**available**]** *appropriate*, add to or correct information already entered.

D. The local department shall use MD CHESSIE, CIS, **[**AMF**]**, *other appropriate databases* and available case records to obtain information concerning the child, **[**caretaker**]** *caregiver*, or household or family members, and other individuals as appropriate.

E. If a report of **[**suspected child abuse or neglect**]** *alleged maltreatment* concerns **[**conduct of**]** a local department employee, *immediate family member of a local department employee, or other individual as to whom the local department determines that the outcome of its CPS response might reasonably be questioned due to the possibility of bias or other applicable circumstance*, the local department shall:

(1) (text unchanged)

(2) If necessary to protect confidentiality or to facilitate an objective **[**investigation**]** *CPS response*:

(a) Request that another local department conduct the **[**investigation**]** *CPS response*; or

(b) (text unchanged)

F. Report of Child Fatality. If a report of **[**suspected child abuse or neglect**]** *alleged maltreatment* involves a child fatality:

(1) The local department shall contact the Administration not later than the next working day to:

(a) (text unchanged)

(b) Discuss the local department's plan for completing the investigation *and responding to any inquiries made pursuant to Human Services Article, §1-203, Annotated Code of Maryland* ; and

(2) (The Administration **[**shall**]** *may* promptly notify the State Fatality Review Team.

G. Report Concerning Child Care. If a report of **[**suspected child abuse or neglect**]** *alleged maltreatment* concerns a child care center or family day care home, the local department shall:

(1) (text unchanged)

(2) **[**Conduct an investigation of the report**]** *If accepted for investigation, respond* in accordance with procedures agreed upon by the local department and the Office of Child Care of the State Department of Education.

H. Report Concerning Foster Home. If a report of **[**suspected abuse or neglect**]** *alleged maltreatment* concerns a foster home licensed by a local department or a licensed child placement agency, the local department, under COMAR 07.02.11.23, shall:

(1)Notify the Administration;

[(1)**]** *(2)* In the case of a home licensed by a child placement agency, notify the child placement agency;

[(2)**]** *(3)* In the case of a home licensed by a local department, notify and, to the extent feasible, coordinate the **[**investigation**]** *CPS response* with the:

(a)—(b) (text unchanged)

[(3)**]** *(4)* Exchange information with the *Administration,* caseworkers or child placement agency regarding:

(a)—(b) (text unchanged)

(c) The disposition **[**of the child abuse or neglect investigation**]** *or assessment resulting from a CPS response.*

I. If a report of **[**suspected child abuse or neglect**]** *alleged maltreatment* concerns an adult who is believed to have been abused or neglected as a child, the local department shall:

(1) Determine if the **[**suspected abuser or neglector**]** *alleged maltreator*:

(a)— (c) (text unchanged)

(2) Assess whether children are at risk of child abuse or neglect by the **[**suspected abuser or neglector**]** *alleged maltreator*.

(3) Depending on the extent of the abuse or neglect and other factors such as how recently the abuse or neglect occurred and the risk to other children, conduct an investigation.

J. If appropriate, the local department shall request information from a provider of health care, including mental health care or substance abuse treatment, regarding a child or adult being assessed or served in connection with a reported incident of **[**suspected**]** child abuse or neglect.

K. **[**Investigations**]** *CPS Responses* Across Jurisdictional Lines in Maryland.

(1) Except as provided in §**[**K(4)**]** *E* of this regulation, if a child is alleged to have been abused or neglected in **[**a jurisdiction other than**]** *Maryland regardless of* where the child is living at the time of the report, responsibility for the **[**investigation**]** *CPS response* rests with the local department where the abuse or neglect is alleged to have occurred.

(2) The local department investigating a report is responsible for:

(a) (text unchanged)

(b) Interviewing **[**a suspected abuser or suspected neglector**]** *the alleged maltreator* if the individual is living in the area served by that department or, if **[**a suspected abuser or neglector**]** *the alleged maltreator* lives in another jurisdiction, requesting that the local department or appropriate social service agency in that jurisdiction interview the individual;

(c) Requesting that the local department or appropriate social service agency where the **[**child**]** *alleged victim* lives conduct the relevant interviews and assess the child's and family's need for services;

(d)—(e) (text unchanged)

(3) The local department where the child lives is responsible for:

(a)—(b) (text unchanged)

(c) Assessing service needs including the child's need for protection from further abuse or neglect if the **[**suspected abuser or neglector**]** *alleged maltreator* is a member of the child's household or family;

(d) (text unchanged)

(e) Forwarding findings of the **[**investigation**]** *CPS response* to the local department where the abuse or neglect is alleged to have occurred; and

(f) (text unchanged)

[(4) A local department responsible for investigating a report of child abuse or neglect may request that a local department in another jurisdiction investigate the report and make a recommended finding if the:

(a) Report concerns conduct of a local department employee; or

(b) Local department determines that the outcome of its investigation might reasonably be questioned due to the possibility of bias or other applicable factors.**]**

L. **[**Investigations**]** *CPS Response* Across Jurisdictions — **[**Alleged**]** Maltreatment Outside Maryland.

(1) If a local department receives a report that a child is alleged to have been abused or neglected outside Maryland, the local department shall:

(a) Request that the reporter also contact the agency responsible for the **[**investigation**]** *CPS response* of such reports in the jurisdiction where the maltreatment is alleged to have occurred; and

(b) (text unchanged)

(2) (text unchanged)

(3) The local department shall cooperate to the extent requested with the agency investigating *or assessing* the report.

.07 Investigation of [Suspected] Child Abuse and Neglect—General.

A. (text unchanged)

B. If necessary, the local department shall seek further information from a reporting source, parents, other relatives, and other appropriate community agencies such as schools, hospitals, clinics, or police. The local department may seek police or court involvement if necessary to complete its investigation.

C. If the local department is denied entry to a child care center or family day care home to conduct an on-site investigation, the local department shall contact the Office of Child Care of the State Department of Education's regional manager in an attempt to gain entry under COMAR **[**07.04.01**]** *13A.15.07* and **[**07.04.02**]** *13A.16.07*.

D. Initial Interviews—*Investigation* **[**Reports of Suspected Child Abuse or Neglect**]**.

(1)—(2) (text unchanged)

(3) During an initial interview with the **[**individual identified in a report as being responsible for suspected abuse or neglect**]** *alleged maltreator*, the local department representative shall provide information concerning:

(a) The nature of the reported **[**child abuse or neglect**]** *alleged maltreatment*; and

(b) (text unchanged)

E.—F. (text unchanged)

G. The local department, or where applicable, law enforcement shall notify the State's Attorney's office of any preliminary findings in an abuse investigation within 10 days of receipt of the report of alleged child abuse.

.08 On-Site Investigation.

A. Physical and Sexual Abuse. Within 24 hours of receiving a report of **[**suspected**]** child abuse, the local department or, by joint agreement with the appropriate law enforcement agency, a law enforcement officer, shall:

(1)—(2) (text unchanged)

(3) Attempt to see any other children who are in the care of the **[**suspected**]** maltreator and determine if the health, safety, and well-being of the children require that they be removed;

(4) Attempt to have an on-site interview with the alleged victim's **[**caretaker**]** *caregiver*;

(5)—(6) (text unchanged)

B. (text unchanged)

C. Abuse and Neglect—Mental Injury.

(1) Within 5 calendar days of receiving a report of **[**suspected**]** *alleged* child abuse or neglect involving mental injury, a local department shall follow the procedures under §A of this regulation.

(2) If an investigation of abuse or neglect suggests issues relating to a child's emotional or psychological well-being, a separate investigation of mental injury may be conducted after consideration of *relevant factors including but not limited to* any of the following:

(a)—(e) (text unchanged)

(3) Professional Assessments—Mental Injury.

(a) If a worker suspects mental injury, the worker shall obtain an assessment by any two of the following:

(i) A licensed physician, as defined in Health Occupations Article, §14-101, Annotated Code of Maryland;

(ii) A licensed psychologist, as defined in Health Occupations Article, §18-101, Annotated Code of Maryland; or

(iii) A licensed social worker, as defined in Health Occupations Article §19-101, Annotated Code of Maryland, and including a licensed social worker employed by any local department.

(b) The professional assessment shall include:

(i) A determination whether the child has sustained a mental injury;

(ii) If applicable, a description of observable, identifiable, and substantial impairment of the child's mental or psychological ability to function; and

(iii) If applicable, an explanation of the act or omission that is believed to have caused the mental injury.

(c) The local department shall consider professional assessments along with other information gathered during the investigation.

(4) Mental Injury—Categorized.

(a)If the mental injury is caused by an act to a child, it shall be referred to as child abuse; or

(b) If the mental injury is caused by an omission or other failure to provide proper care or attention to a child, it shall be referred to as child neglect.

.09 Completion of Investigation of [Suspected] *Child* Abuse or Neglect.

A. **[**All Investigations.

(1)**]** The local department shall complete its investigation using assessment tools and forms required by the Administration.

[(2)**]** *B.* The local department or, by joint agreement, law enforcement shall:

[(a)**]** *(1)*—**[**(b)**]** *(2)* (text unchanged)

[(3)**]** *C.* An investigation is complete when the local department or law enforcement:

[(a)**]** *(1)* (text unchanged)

[(b)**]** *(2)* Determines if evidence is present to identify **[**an alleged abuser or neglector**]** *a maltreator*;

[(c)**]** *(3)* Determines the names, ages, and conditions of other children in the household or in the care or custody of **[**an alleged abuser or neglector**]** *a maltreator*;

[(d)**]** *(4)*—**[**(f)**]** *(6)* (text unchanged)

[(4) If an assessment by other than the local department is necessary to determine the nature, extent, or cause of injury, sexual abuse, or neglect, and the assessment is not completed within 60 days, the local department may, with a supervisor's approval, complete the investigation with a pending finding until it receives the required assessment.**]**

[B. Mental Injury.

(1) Professional Assessments—Mental Injury.

(a) If a worker suspects mental injury, the investigation shall include an assessment by any two of the following:

(i) A licensed physician, as defined in Health Occupations Article, §14-101, Annotated Code of Maryland;

(ii) A licensed psychologist, as defined in Health Occupations Article, §18-101, Annotated Code of Maryland; or

(iii) A licensed social worker, as defined in Health Occupations Article, §19-101, Annotated Code of Maryland, and including a licensed social worker employed by any local department.

(b) The professional assessment shall include:

(i) A determination whether the child has sustained a mental injury;

(ii) If applicable, a description of observable, identifiable, and substantial impairment of the child's mental or psychological ability to function; and

(iii) If applicable, an explanation of the act or omission that is believed to have caused the mental injury.

(c) The local department shall consider professional assessments along with other information gathered during the investigation.

(2) Mental Injury—Categorized.

(a) Child abuse or neglect involving mental injury shall be referred to as:

(i) Abuse, if the mental injury is caused by an act to a child; or

(ii) Neglect, if the mental injury is caused by an omission or other failure to provide proper care or attention to a child.

(b) Mental injury not included under §B(2)(a) of this regulation may not be categorized as child abuse or neglect.**]**

.10 Identification of [Alleged Abuser or Alleged Neglector] *Maltreator*.

A. Except as provided in this chapter, if a local department completes an investigation with a finding of indicated or unsubstantiated child abuse or neglect, it shall identify **[**an alleged abuser or neglector**]** *a maltreator*.

B. If a local department completes an investigation with a finding of ruled out child abuse or neglect, it may not identify **[**an individual as an alleged abuser or alleged neglector**]** *a maltreator*.

C. **[**The**]** *If a* local department **[**may not identify an individual as an alleged abuser or neglector if it has insufficient evidence to determine, by a preponderance of the evidence, who is responsible for the alleged abuse or neglect**]** *makes a finding of indicated or unsubstantiated child abuse or neglect but has insufficient evidence to identify by a preponderance of the evidence the individual responsible for the maltreatment, it shall not identify a maltreator*.

D. If a child, other than the parent of a victim, **[**is**]** *was* responsible for causing an injury or was involved in a sexual act toward another child, the local department may consider the following factors in determining whether to identify the child perpetrator as **[**an alleged abuser**]** *a maltreator*:

(1) The age and developmental level of the **[**alleged**]** victim;

(2) The age and developmental level of the **[**alleged abuser**]** *maltreator*;

(3) (text unchanged)

(4) The **[**alleged abuser**]** *maltreator*'s use of coercion, cruelty, or violence; **[**and**]**

(5) Whether the act was inappropriate for the developmental level of each child**[**.**]***;*

(6) The likelihood the maltreator committing further maltreatment; and

(7) The availability and utilization of services to minimize the risk of future maltreatment.

E. More than one individual may be identified as **[**an alleged abuser or alleged neglector**]** *a maltreator* if more than one:

(1) Parent, **[**caretaker**]** *caregiver*, or household or family member **[**is**]** *was more likely than not* involved in the abuse of a child; or

(2) Parent or **[**caretaker is**]** *caregiver was more likely than not* involved in the neglect of a child.

F. The standard of proof required for a determination that an individual is **[**an alleged abuser or alleged neglector**]** *a maltreator* is a preponderance of the evidence and not beyond a reasonable doubt as required for a criminal conviction.

.11 Disposition of Investigation of [Suspected] Child Abuse [and] ***or*** **Neglect—General.**

A.—C. (text unchanged)

.12 Disposition of Investigation of [Suspected] Child Abuse.

A. Indicated Child Abuse.

(1) Physical Abuse Other than Mental Injury. Except as provided in §A(3) of this regulation, a finding of indicated child physical abuse is appropriate if there is credible evidence, which has not been satisfactorily refuted, that it is more likely than not that the following four elements are present:

(a) (text unchanged)

(b) The injury was caused by a parent, **[**caretaker**]** *caregiver*, or household or family member;

(c)—(d) (text unchanged)

(2) Sexual Abuse.

(a) A finding of indicated child sexual abuse is appropriate if there is credible evidence, which has not been satisfactorily refuted, that the following three elements are present:

(i) (text unchanged)

(ii) The sexual molestation or exploitation was caused by a parent, **[**caretaker**]** *caregiver*, or household or family member; and

(iii) (text unchanged)

(b) (text unchanged)

(3) Abuse—Mental Injury. A finding of indicated child abuse with mental injury is appropriate if there is credible evidence, which has not been satisfactorily refuted, that the following four elements are present:

(a) (text unchanged)

(b) The mental injury was caused by a parent, **[**a caretaker**]** *caregiver*, or household or family member;

(c)—(d) (text unchanged)

B. Unsubstantiated Child Abuse. A finding of unsubstantiated child abuse is appropriate when there is insufficient evidence to support a finding of indicated or ruled out child abuse. A finding of unsubstantiated may be based, but is not required to be based, on the following:

(1) (text unchanged)

(2) Insufficient evidence that the **[**individual**]** alleged **[**to be responsible for the child abuse**]** *abuser* was a parent, **[**caretaker**]** *caregiver*, or household or family member;

(3) The lack of a credible account by the **[**suspected**]** *alleged* victim or a witness;

(4) (text unchanged)

(5) **[**Despite reasonable efforts, an**]** *An* inability to **[**complete the investigation**]** *make a finding of indicated or ruled out* due to factors such as:

(a) Lack of access to the child or **[**individual**]** alleged *abuser* **[**to be responsible for the child abuse**]** *despite reasonable efforts*; or

(b) *An* **[**Inability**]** *inability* to obtain relevant facts regarding the alleged child abuse *despite reasonable efforts*.

C. Ruled Out Child Abuse. A finding of ruled out child abuse is appropriate if child abuse did not occur. A finding of ruled out may be based on credible evidence that:

(1) There was no physical or mental injury or, in the case of **[**suspected**]** *alleged* sexual abuse, no sexual molestation or exploitation;

(2) (text unchanged)

(3) The individual identified as responsible for the injury or **[**sexual molestation or exploitation**]** *alleged sexual abuse* was not the child's parent, **[**caretaker**]** *caregiver*, or household or family member; or

(4) (text unchanged)

D. If a child, other than the parent of a victim, was responsible for causing an injury or was involved in a sexual act toward another child, the local department may consider the **[**following**]** factors in *Regulation .10D of this chapter to* **[**determining**]** *determine* the appropriate finding**[**:**]**.

[(1) The age and developmental level of the child victim;

(2) The age and developmental level of the child perpetrator;

(3) The psychological condition of each child;

(4) The child perpetrator's use of coercion, cruelty, or violence; and

(5) Whether the act was inappropriate for the developmental level of each child.**]**

.13 Disposition of Investigation of [Suspected] Child Neglect.

A. Indicated Child Neglect.

(1) Neglect—Other than Mental Injury. Except as provided in §A(2) of this regulation, a finding of indicated child neglect is appropriate when there is credible evidence, which has not been satisfactorily refuted, that the following four elements are present:

(a)—(b) (text unchanged)

(c) The failure to provide proper care and attention was by the child's parent or **[**caretaker**]** *caregiver*; and

(d) (text unchanged)

(2) Neglect—Mental Injury. A finding of indicated child neglect with mental injury is appropriate if there is credible evidence, which has not been satisfactorily refuted, that the following four elements are present:

(a) (text unchanged)

(b) The failure to provide proper care and attention to the child was by a parent or **[**caretaker**]** *caregiver*;

(c)—(d) (text unchanged)

B. Unsubstantiated Child Neglect.

(1) (text unchanged)

(2) A finding of unsubstantiated child neglect may, but need not, be based on the following:

(a) Insufficient evidence that the **[**individual**]** alleged **[**to be responsible for the child neglect**]** *neglector* was a parent or **[**caretaker**]** *caregiver*;

(b) (text unchanged)

(c) Lack of a credible account by the **[**suspected**]** *alleged* victim or a witness;

(d) (text unchanged)

(e) An inability to **[**complete the investigation**]** *make a finding* due to such factors as:

(i) **[**not**]** *Not* having access to the child or the **[**individual**]** alleged **[**to be responsible for the child abuse**]** *neglector;* or

(ii) **[**other**]** *An inability to obtain* relevant facts regarding the alleged child neglect *despite reasonable efforts*.

C. Ruled Out Child Neglect. A finding of ruled out child neglect is appropriate when child neglect did not occur. A finding of ruled out may be based on credible evidence that:

(1)—(2) (text unchanged)

(3) The individual alleged to be responsible for the child neglect was not a parent or a **[**caretaker**]** *caregiver*; or

(4) (text unchanged)

.14 Completion of Investigation.

A. Before a local department closes its record of investigation, it shall:

(1) Ensure that the record is complete;

(2) Send notice of the finding to the maltreator and, if applicable of the right to appeal under COMAR 07.02.26;

(3) In a case of indicated or unsubstantiated maltreatment where no individual has been identified as a maltreator, send notice of the finding to any alleged maltreator of the right to appeal the finding under COMAR 07.02.26;

(4) Send notice to an individual responsible for the alleged victim's welfare of the finding, stating that:

(a) Child Protective Services are being terminated; and

(b) The case is or is not being referred for additional services;

(5) Within 5 working days of completing an investigation, the local department shall complete a written report of its findings, including:

(a) The identification of any needed services; and

(b) A finding of indicated, unsubstantiated, or ruled out child abuse or neglect;

(6) In the case of an abuse investigation, the local department shall make a final report to the State's Attorney's office upon completion of the written report; and

(7) In the case of a neglect investigation, the local department may make a final report to the State's Attorney's office upon completion of the written report.

.15 Alternative Response Assessment of Child Abuse or Neglect.

A. During the alternative response assessment, the local department shall gather appropriate information to:

(1) Evaluate the child's home environment;

(2) Decide on the safety of the child and of other children in the household;

(3) Decide on the safety of other children in the care or custody of the individual suspected of abuse or neglect;

(4) Determine what services, if any, are appropriate; and

(5) Determine if the local department should initiate the process of voluntary placement as defined in Family Law Article, §5-525(a), Annotated Code of Maryland, take the child into shelter care, or file a CINA petition.

B. Initial Interviews—Alternative Response.

(1) Before an initial interview with an adult, the local department representative shall present identification as a local department representative.

(2) Before an initial interview with a child, the local department representative shall present identification in a manner appropriate to the child's developmental level.

(3) During an initial interview with the individual the allegations were made against, the local department representative shall provide information concerning:

(a) The nature of the reported child abuse or neglect; and

(b) The local department's alternative response process.

C. If during the course of an alternative response assessment, the department becomes concerned about danger to a child, the department should follow the procedures as outlined in Regulation .07E of this chapter.

D. If during the course of an alternative response assessment, the department takes a child into custody without parental consent or before court approval, the local department shall have the child examined as outlined in Regulation .07F of this chapter.

E. The local department shall advise the appropriate law enforcement agency that the report has been assigned for an alternative response, if the law enforcement agency made the report of abuse or neglect.

.16 On-Site Alternative Response Assessment.

A. Within 24 hours of receiving a report of child abuse assigned for an alternative response, the local department shall:

(1) Initiate an on-site assessment with the child's parent or primary caregiver;

(2) Initiate an on-site assessment with the child and attempt to see any other children in the care or custody of the individual alleged to have caused the abuse;

(3) Determine if the health, safety or well-being of any children are at risk;

(4) Document all visits or attempted visits; and

(5) If appropriate, obtain information relating to possible resources for the family.

B. Within 5 days of receiving a report of child neglect assigned for an alternative response, the local department shall follow the procedures under §A of this regulation.

.17 Completion of Alternative Response Assessment.

A. The local department shall complete its alternative response assessment using assessment tools and forms required by the Administration.

B. The local department shall:

(1) Complete an alternative response assessment within 60 days after receipt of the report; and

(2) Within 10 days after completing the alternative response assessment, provide a written report to the family members who are participating in the alternative response assessment as to whether and what services are necessary to address:

(a) The safety of the child or other children in the household; and

(b) The risk of subsequent abuse or neglect; and

(3) Consistent with the assessment and any safety or service plans:

(a) Render any appropriate services in the best interests of the child;

(b) Refer the family or child for additional services; or

(c) As necessary for the safety of the child or other children in the household, establish a plan to monitor the safety plan and the provision or completion of appropriate services.

[.14] *.18* Reports[, Service Decisions, and Plans].

A. The local department or, where applicable, law enforcement shall notify the State's Attorney's office of **[**its**]** *any* preliminary findings in an abuse investigation within 10 days of receipt of the report of **[**suspected**]** *alleged* child abuse.

B. Written Report.

(1) Within 5 working days of completing **[**a child abuse or neglect**]** *an* investigation, the local department shall complete a written report of its findings including:

(a)—b) (text unchanged)

(2)—(3) (text unchanged)

[C.**] *.19* Provision of Services.**

[(1)**]** *A.* If a local department determines that, as a result of its **[**investigation and assessment**]** *CPS response*, continuing services are appropriate, it shall immediately refer the case to staff providing continuing services.

[(2)**]** *B.* If continuing child welfare services are provided through purchase or by referral, information from the record regarding the **[**investigation and assessment**]** *CPS response* shall be shared with the provider as appropriate to the case and in accordance with confidentiality provisions of Regulation **[**.19**]** *.24* of this chapter.

[(3)**]** *C.* If the local department determines that a child is a CINA, it shall file a petition with the court in accordance with Courts and Judicial Proceedings Article, §3-809, Annotated Code of Maryland.

[(4)**]** *D.* Regardless of whether the local department petitions the court for a finding that the child is a CINA, the local department shall continue, as appropriate, to assess the child's safety.

[.15] *.20* The Record.

A. The local department shall maintain a case record for every child and family referred in accordance with Regulation **[**.17**]** *.20* of this chapter.

B. The record shall include:

(1) Information obtained in the child abuse or neglect **[**investigation**]** *CPS response*, including but not limited to:

(a) The **[**written**]** initial *written* report of **[**suspected**]** abuse or neglect;

(b) Documentation of the local department's contacts and interviews **[**during its investigation**]**;

(c) The local department's written report **[**of its findings**]** *and assessments*; and

(d) A recording of any interview conducted by the local department or, in a joint investigation, by law enforcement during the CPS response; and

[(d)**]** *(e)* All other reports, including medical reports, correspondence, consents, and any other documents relating to the **[**investigation**]** *CPS response* including, if helpful to the **[**investigation**]** *CPS response*, reports or other documentation or photographs prepared by law enforcement as a result of its participation in the **[**investigation**]** *CPS response*; and

(2) (text unchanged)

(3) The names and addresses of both parents, guardians, identified relatives, and other significant individuals related to the **[**investigation or assessment**]** *CPS response*.

C. If a local department provides child welfare services other than child protective services after **[**an investigation**]** *completion of a CPS response* **[**has been completed**]**, on a voluntary basis or by authority of a court, the local department's files related to the child welfare services shall be kept with, but not be part of, the *CPS response* record.

[.17] ***.21*** **Expunging Local Department Abuse and Neglect Records.**

A. Investigation.

[A.**]** *(1)* Unsubstantiated.

[(1)**]** *(a)* (text unchanged)

[(2)**]** *(b)* If there has been a subsequent child abuse or neglect report resulting in a finding of unsubstantiated child abuse or neglect, the local department may not expunge its record related to the investigation that resulted in the unsubstantiated finding until the later of:

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

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

[B.**]** *(2)* Ruled Out.

[(1)**]** *(a)* If there has been no subsequent report concerning an **[**individual alleged to be responsible for child abuse or neglect**]** *alleged maltreator in an investigation that resulted in a finding of* **[**that was**]** ruled out, the local department shall expunge its records related to the investigation within 120 days of receiving the report.

[(2)**]** *(b)* If, before expungement of a record relating to a finding of ruled out child abuse or neglect, the local department receives a report concerning the same **[**individual**]** alleged **[**to have been responsible in an earlier investigation,**]** *maltreator* the local department may not expunge its record related to the investigation that resulted in a ruled out finding until the date of expungement of the record related to the subsequent investigation.

[(3)**]** *(c)* If there has been a subsequent finding of indicated child abuse or neglect concerning an **[**individual**]** alleged **[**to be responsible in an investigation that resulted**]** *maltreator* in a *case that resulted in a finding of* ruled out **[**finding**]**, the local department may not expunge its record related to either investigation.

[C.**]** *(3)* Screened Out Reports.

[(1)**]** *(a)* If there has been no subsequent report concerning an **[**individual**]** alleged *maltreator in a report* **[**to be responsible for child abuse or neglect that was screened out**]**, the local department shall expunge its records related to the screened out report within 120 days of receiving the report.

[(2)**]** *(b)* If, before expungement of a report **[**relating to a**]** *that was* screened out **[**report of child abuse or neglect**]**, the local department receives a new report concerning the same **[**individual**]** alleged **[**to have been responsible**]** *maltreator* **[**in an earlier report**]**, the local department may not expunge its record related to the **[**report that resulted in a**]** screened out report **[**finding**]** until the date of expungement of the **[**report**]** *record* related to the subsequent report.

[D.**]** *(4)* Indicated Findings. Except in accordance with schedules pertaining to the general retention of records, a local department may not expunge **[**its**]** *a* record related to an investigation of child abuse and neglect that resulted in a final ruling of indicated.

[E.**]** *(5)* Upon written request by an **[**individual suspected or**]** alleged **[**to be responsible for child abuse or neglect**]** *maltreator or maltreator*, the local department may **[**continue to maintain**]** *retain* its record of investigation beyond the expungement date.

[F.**]** *(6)*—**[**G.**]** *(7)* (text unchanged)

B. Alternative Response.

(1)The local department shall maintain complete records related to an alternative response for 3 years after the report was received if there is no subsequent child welfare involvement; and

(2) Expunge complete records related to an alternative response if there is no subsequent child welfare involvement within 3 years.

[H.**]** *C.* Expungement of records in accordance with this chapter shall include**[**:

(1) Shredding**]** *shredding* or deleting all documents **[**in the record of the investigation**]**, including the report of **[**suspected**]** abuse or neglect and all assessments and investigative findings**[**; and**]** *in all information sources available to the Department.*

[(2) Clearing CIS, AMF, and MD CHESSIE of all information pertaining to the abuse or neglect report.**]**

[.18] ***.22*** **CIS, MD CHESSIE, and the Central Registry.**

A. Process for Entering Information into CIS, MD CHESSIE, and the Central Registry.

(1) Upon accepting a report of **[**suspected**]** child abuse or neglect for **[**investigation**]** *a CPS response*, the local department shall enter identifying information into MD CHESSIE and, as appropriate, add to or correct information already entered.

(2) Identifying information regarding a report of **[**suspected**]** child abuse or neglect may not be **[**maintained on**]** *retained in* CIS or MD CHESSIE past the date for expungement.

(3) The local department may only **[**indicate on CIS and MD CHESSIE by use of a marker, code, flag, or other symbol next to the name of an individual that the**]** *identify an* individual *as a maltreator on the central registry* **[**has been found responsible for alleged child abuse or neglect**]** if the individual *was found responsible for indicated child abuse or neglect; and***[**:**]**

(a) **[**Has been**]** *Was* found guilty of any criminal charge arising out of the **[**alleged**]** abuse or neglect;

(b) **[**Has been found responsible for indicated child abuse or neglect and has failed**]** *Failed* to exercise appeal rights in accordance with COMAR 07.02.26; or

(c) *Unsuccessfully* **[**Appealed**]** *appealed* **[**a**]** *the indicated* finding in accordance with COMAR 07.02.26**[**, and was found responsible for indicated child abuse or neglect**]**.

B. Maintenance of Identification as Alleged Abuser or Neglector.

(1) Seven years after a local department has entered the name of an individual **[**found responsible for indicated child abuse or neglect**]** *identified in the central registry as a maltreator*, the local department shall remove from **[**CIS and MD CHESSIE any marker, code, flag, or other symbol identifying the individual as responsible for indicated child abuse or neglect**]** *the central registry that identification but may not remove that person's name from identifying information.*

(2) If, during the 7 years, an individual **[**has**]** *is* again **[**been found responsible for indicated child abuse or neglect, the marker, code, flag, or other symbol may not be removed**]** *identified as a maltreator in the central registry, the local department shall maintain the maltreator identification* in the earlier case until, in accordance with §B(1) of this regulation, the **[**marker, code, flag, or other identifier is removed in**]** *identification is removed as to* the latter case.

[.19] .*23* Confidentiality—[Investigations of] *CPS Responses to* Child Abuse or Neglect.

A. Except as otherwise provided in Family Law Article, Title 5, Subtitle 7, and Human Services Article, §§1-201—1-203, Annotated Code of Maryland, and this chapter:

(1) (text unchanged)

(2) The unauthorized disclosure of records and reports concerning child abuse or neglect and the information contained in them is a criminal offense subject to the penalty set out in Human Services Article, §1-202**[**(f)**]** *(e),* Annotated Code of Maryland.

B. A local department shall disclose a record or report concerning a child abuse or neglect **[**investigation**]** *CPS response*:

(1) To a court:

(a) (text unchanged)

(b) Ruling **[**on**]** *in* a CINA **[**petition**]** *case* or *on a* petition for guardianship with a right to consent to adoption of the child; or

(c) (text unchanged)

(2) Under an order of an administrative law judge if:

(a) (text unchanged)

(b) Provision is made to:

(i) (text unchanged)

(ii) **[**Protect**]** *To withhold* the identity of the **[**report or other**]** *individual who made the report, unless the reporter is a mandatory reporter who has waived this protection in writing, and of any* **[**individuals**]** *individual* whose life or safety is likely to be endangered by disclosure;

(3) (text unchanged)

(4) On a written request, to the Baltimore City Health **[**Department**]** *Department's Office of Youth Violence Prevention*:

(a) If the Baltimore City Health **[**Department**]** *Department's Office of Youth Violence Prevention* is providing treatment or care to a **[**child who is the subject of a report of**]** *victim in a case of* child abuse or neglect, for a purpose relevant to the provision of the treatment or care; **[**or**]**

(b) If the record or report concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

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

(5) To the Division of Parole and Probation in the Department of Public Safety and Correctional Services if, as a result of a report **[**or investigation of suspected**]** *of alleged* child abuse or neglect, the local department has reason to believe that an individual who lives with or is in the regular presence of a child is registered under Criminal Procedure Article, Title 11, Subtitle 7, Annotated Code of Maryland, as a result of committing a sexual crime against a child.

(6) To a health care practitioner, or agency, institution, or program providing treatment or care to a victim of maltreatment for a purpose relevant to the treatment or care and limited to:

(a) Information regarding the condition and well-being of the victim;

(b) Information regarding the medical, mental health, and developmental needs of the victim;

(c) The name of any health care practitioner identified in the record as providing care or treatment to the victim; and

(d) Any other information in the record or report that the local department deems useful to the practitioner or agency, institution or program.

(7) In response to a request concerning child abuse or neglect of a child who has suffered a fatality or near fatality, the information required to be disclosed by Human Services Article, §1-203, Annotated Code of Maryland on a form developed by the Department regarding the acts and omissions of the local department or the Department and information limited to:

(a) The name of any child who sustained a fatality;

(b) The date of the report of the fatality or near fatality;

(c) The dates of any prior or subsequent reports and findings concerning the maltreator, the victim, or the victim's or maltreator's family or household;

(d) The number and type of any services provided to the maltreator, the victim, or household or family members;

(e) The number and type of any referrals for services provided to the maltreator, the victim, or household or family members;

(f) Any prior CINA adjudications of the victim, siblings, or other children in the household, family, or care of the maltreator;

(g) The status of any CPS case involving the victim that was open at the time of the fatality or near fatality;

(h) A summary of the facts, including the dates of the fatality or near fatality;

(i) In the case of a fatality, the cause of the fatality as reported by the medical examiner; and

(j) Other information concerning the circumstances of the fatality or near fatality as determined by the Secretary of the Department or the director of the local department to be consistent with the public interest.

C. **[**To the extent relevant to the purpose of the following exceptions to the confidentiality of case records,**]** *If it furthers the purpose of the specific exception to confidentiality,* a local department may disclose a record or report concerning a **[**child abuse or neglect investigation**]** *CPS response* to:

(1) Local or state departments of social services, law enforcement, and members of multidisciplinary case consultation teams, investigating a report of **[**known or suspected or alleged**]** child abuse or neglect or providing services to a **[**child or family members who are the subject of the report**]** *victim or a victim's family*;

(2) (text unchanged)

(3) A licensed practitioner, agency, institution, or program providing treatment or care to a **[**child who is the subject of a report of child abuse or neglect**]** *victim*;

(4) **[**An individual identified as responsible for alleged abuse or neglect**]** *A maltreator* if the individual is responsible for the child's welfare;

(5) A child's parent or **[**caretaker**]** *caregiver*;

(6) The appropriate public school superintendent or principal, or equivalent employee of a nonpublic school that holds a State certificate of approval or is registered with the State Department of Education, *or a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington* for the purpose of carrying out appropriate personnel or administrative actions following a report of **[**suspected**]** child abuse involving a student committed by:

(a) **[**A public school**]** *A* employee in that school *or school* system;

(b) **[**An employee of that nonpublic school;

(c)**]** An independent contractor who supervises or works directly with students in that *school or* school system **[**or that nonpublic school**]**; or

[(d)**]** *(c)* An employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that *school or* school system **[**or that nonpublic school**]**;

(7) The appropriate school superintendent if the report concerns **[**suspected**]** child abuse involving a student committed by an employee, independent contractor, or employee of an independent contractor described in §C(6) of this regulation and employed by a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington;

(8) **[**The appropriate public school superintendent for the purpose of carrying out appropriate personnel actions following a report of suspected child abuse involving a student committed by:

(a) A public school employee in that school system;

(b) An independent contractor who supervises or works directly with students in that school system; or

(c) An employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school system**]** *The president of a Maryland public institution of higher education, as defined in Education Article, Title 10, Subtitle 1, Annotated Code of Maryland, or the Chancellor of the University System of Maryland, to carry out appropriate personnel or administrative actions following a report of child abuse committed:*

(i) By an employee of the institution who has on-campus contact with children; or

(ii) By a contractor, an employee of a contractor, or a volunteer of the institution who has on-campus contact with children; and

(9) The Office of Child Care of the State Department of Education for disclosure to an operator of a child care center that is required to be licensed or to hold a letter of compliance under Family Law Article, Title 5, Subtitle 5 Part VII, Annotated Code of Maryland, or to a family day care provider who is required to be registered under Family Law Article, Title 5, Subtitle 5 Part V, Annotated Code of Maryland, for the purpose of:

(a) Determining the suitability of an individual for employment in the child care center or family day care home: or

(b) Carrying out appropriate personnel actions following a report of **[**suspected**]** child neglect or abuse alleged to have been committed by an employee of the child care center or family day care home and involving a child who **[**is currently or who**]** was **[**previously**]**, *at the time of the alleged maltreatment,* under the care of the child care center or family day care provider;

(10) **[**An**]** *A qualified* addictions specialist, as defined in Family Law Article, Title 5, Subtitle 12, Annotated Code of Maryland;

(11) The Office of the **[**Independent**]** Juvenile Justice Monitor*ing unit of the Office of the Attorney General*; or

(12) A licensed practitioner of a hospital or birthing center for the purpose of making discharge decisions concerning a child, when the practitioner suspects that the child may be in danger after discharge, based on the practitioner's observation or knowledge of the behavior of the child's parents or immediate family members *but limited to only the following information:***[**.

D. Only the following information concerning child abuse and neglect may be disclosed to a practitioner of a hospital or birthing center:**]**

[(1)**]** *(a)* Whether there is a prior finding of indicated child abuse or neglect by either parent; and

[(2)**]** *(b)* Whether there is an open **[**investigation of child abuse or neglect pending against**]** *CPS response with* either parent.

[E.**]** *D.* In accordance with COMAR 07.02.26 and in connection with an appeal request by an alleged **[**abuser or alleged neglector**]** *maltreator*, a local department shall disclose a redacted record to the appellant.

[F. Except as specifically ordered by a court or administrative law judge in accordance with §B of this regulation, when a record or report is disclosed, provision shall be made for the protection of the identity of the reporter or any other individual whose life or safety is likely to be endangered by disclosing the information.**]**

[G.**]** *E.* A record or report may be disclosed only to individuals who, by law or by written agreement, are subject to the requirements of Human Services Article, §1-202, Annotated Code of Maryland.

[H.**]** *F.* Disclosure by Consent.

(1) In addition to the provisions of §§B—E of this regulation, a local department may disclose information, records, or reports concerning **[**an investigation of**]** *a CPS response to* child abuse or neglect if all parties about whom information will be disclosed have waived their confidentiality interest in **[**writing**]** *accordance with COMAR 07.01.07.05.*

(2) A parent, guardian, or custodian may **[**sign a written waiver of**]** *waive* a child's right to confidentiality *only* if the local department does not suspect that the **[**parent, guardian, or custodian**]** *individual* was responsible *for* or contributed to the child's abuse or neglect.

(3) Notarized Consent.

(a) In response to a notarized request from an individual working or volunteering with children or applying to work or volunteer with children, a local department may notify a designated party of whether **[**a local department**]**, *in a final ruling, the individual* has *been* identified **[**the individual**]** as responsible for indicated child abuse or neglect.

(b) When a local department has notified a designated party that an individual has been found responsible for indicated child abuse or neglect in accordance with §H(3)(a) of this regulation, the individual may submit a second notarized request, pursuant to which the local department may release to the designated party a brief written summary of the facts resulting in the indicated finding **[**so long as the local department protects**]** *withholding* the identity of the reporter and individuals other than the applicant named in the record.

(c) Except where an individual has been identified **[**on CIS or MD CHESSIE**]** *as a maltreator on the central registry,* disclosure under **[**Regulation .19 of this chapter**]** *this regulation* may not be based solely on information **[**on CIS, MD CHESSIE, or on any other**]** *in the* central registry *and must include review, as available, of the local department's case file and any other material necessary to ensure that disclosures are accurate.*

(d) When a local department receives a request concerning an individual as to whom there is a pending child abuse or neglect investigation, the local department shall not respond to the request until there is a final ruling.

(e) When a local department receives a request concerning an individual with a finding of indicated child abuse or neglect who has not been offered an opportunity to request a contested case hearing, the local department shall:

(i) Provide the individual with appeal rights pursuant to Family Law Article, §5-706.1, Annotated Code of Maryland; and

(ii) Wait for a final ruling before providing the requested information.

(f) The local department may not use or disclose records related to an alternative response for purposes of responding to a request for background information for employment or voluntary services; and

(g) The local department shall protect from disclosure records related to an alternative response in accordance with Human Services Article, Title 1, Subtitle 2, Annotated Code of Maryland.

[I.**]** *G.* Except as provided in §B of this regulation, when making the decision to disclose information, records, or reports in accordance with **[**Regulation .19 of this chapter and Human Services Article,

§1-202, Annotated Code of Maryland**]** *this regulation*, the local department:

(1)—(2) (text unchanged)

[J.**]** *H.* Identification of Reporting Source. A local department may not identify the individual who reported child abuse or neglect unless:

(1)—(2) (text unchanged)

[K.**]** *I.* If demographic and statistical data do not identify particular individuals or cases, the data may be publicized or distributed for administrative or research purposes.

[.20] .*24* Multidisciplinary Case Consultation Teams.

A. (text unchanged)

B. Purpose and Composition of Other Multidisciplinary Case Consultation Teams.

(1) The local department may establish or convene a multidisciplinary case consultation team if needed to assist in a particular **[**investigation**]** *CPS response* or provision of service in a particular case with representatives, as appropriate from the entities specified in §A(2) of this regulation.

(2) Reports Concerning Child Care Centers or Family Day Care Homes.

(a) If a report concerns child abuse or neglect in a child care center or family day care home, the local department shall assist the Office of Child Care of the State Department of Education's regional manager in convening a multidisciplinary case consultation team to coordinate investigation procedures consistent with the written agreement developed under Family Law Article, §5-706**[**e**]***(f)*, Annotated Code of Maryland.

(b) (text unchanged)

(3) (text unchanged)

[.21] .*25* Development of Procedures for Joint Investigations.

A. The local department shall collaborate to develop a written agreement that specifies standard operating procedures for the investigation and prosecution of reported cases of **[**suspected**]** *alleged* abuse and neglect with:

(1)—(4) (text unchanged)

B. (text unchanged)

C. Include a provision for ensuring that law enforcement make available to the local department any and all recordings of victim, witness, or maltreator interviews conducted in the course of a joint investigation.

[.22] .*26* Hearings.

An individual who is identified as **[**an alleged abuser or alleged neglector in an resulting in an indicated or unsubstantiated finding**]** *a maltreator or an individual who was alleged to be a maltreator that resulted in a finding of indicated or unsubstantiated child abuse or neglect* may request a hearing in accordance with COMAR 07.02.26.

TED DALLAS
Secretary of Human Resources

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.26 Child Abuse and Neglect Hearings

Authority: Family Law Article, §§5-701, 5-706, 5-706.1, 5-707, and 5-714; Human Services Article, Title 1; Annotated Code of Maryland

Notice of Proposed Action

[15-073-P]

The Secretary of the Department of Human Resources proposes to amend Regulations **.01—.15** under **COMAR 07.02.26 Child Abuse and Neglect Hearings**.

Statement of Purpose

The purpose of this action is to clarify existing language and to add the definition of maltreator to this chapter. Additions were made as to who to notify when a minor has been named as a maltreator in an investigation. Clarification was given about what the Office of Administrative Hearings should do when there is an active CINA proceeding. The changes also include clarifying language as it pertains to a conference for unsubstantiated child abuse or neglect. Language was also deleted to update the types of recordings that would need to be expunged to include all recordings.

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 Andrea Shuck, Regulations Coordinator, Department of Human Resources, 301 W. Saratoga St., Rm. 265, Baltimore, MD 21201, or call 410-767-7193, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Scope.

A. Except as set forth in §B of this regulation, an individual found responsible by a local department for indicated or unsubstantiated child abuse or neglect *or who was alleged to have abused or neglected a child in a case that resulted in a finding of indicated or unsubstantiated child abuse or neglect with no maltreator identified* is entitled to an opportunity to appeal in accordance with this chapter.

B. In those cases in which, before June 1, 1999, a local department **[**offered an individual an opportunity to appeal a finding of child abuse or neglect**]** *made a finding of indicated, unsubstantiated or the equivalent, and an individual has now requested a hearing,* that appeal will be conducted in accordance with the procedures *in these regulations under the substantive law* applicable at the time **[**the local department notified the individual of the opportunity to request a hearing**]** *of the local department's finding*.

.02 Definitions.

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

B. Terms Defined.

(1) (text unchanged)

(2) "Alleged" means reported to the local department.

[(2)**]** *(3)* "Appellant" means an individual who has requested an appeal under this chapter.

[(3)**]** *(4)* "Central registry" means any component of **[**the Department's confidential computerized database**]** *CIS or MD CHESSIE* that contains information regarding child abuse and neglect investigations *and is available to all local departments.*

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

(8) "Client Information System (CIS)" means the Department's automated database that maintains data related to services provided by local departments.

[(7)**]** *(9)*—**[**(11)**]** *(13)*(text unchanged)

[(12)**]** *(14)* "Identify an individual as responsible for child abuse or neglect in a central registry" means entering a *notation* **[**marker, code, flag, or other symbol next to the name of an

individual**]** listed in a central registry to make clear that the individual has been determined by a local department to be responsible for indicated child abuse or neglect under circumstances specified in Family Law Article, §5-714, Annotated Code of Maryland.

[(13)**]** *(15)* "Identifying information" means the name of:

(a)—(c) (text unchanged)

(d) An individual **[**suspected of being**]** *alleged to be* responsible for child abuse or neglect.

[(14)**]** *(16)*—**[**(15)**]** *(17)*(text unchanged)

(18) "Maltreator" means an individual who has been found responsible by a local department for indicated or unsubstantiated child abuse or neglect.

(19) "Maryland Children's Electronic Social Services Information Exchange (MD CHESSIE)" means Maryland's Statewide-automated case management system.

[(16)**]** *(20)*—**[**(17)**]** *(21)*(text unchanged)

[(18)**]** *(22)* **[**"Record" means the original or a copy of any documentary material, in any form, including a report of alleged or suspected child abuse or neglect, concerning an incident of alleged child abuse or neglect, that is made or received by a local department.**]**

Record.

(a) "Record" means the original or a copy of documentary material, in any form, concerning an investigation of alleged child abuse or neglect.

(b)"Record" includes a report of alleged child abuse or neglect received by or from a state, county, or municipal corporation in a state, or any subdivision or agency.

[(19)**]** *(23)* "Redacted record" means a copy of the record from which the local department has removed certain information in compliance with State and federal laws governing confidentiality, including but not limited to:

(a) Annotated Code of Maryland:

(i) Health-General Article, Title 4, Subtitle 3**[**,**]***;*

(ii) **[**State Government Article, §10-661,**]** *General Provisions Article, Title 3, Subtitle 4;*

(iii) **[**Article 88A, §6(a),**]** *Human Services Article, §§1-201 and 1-202;* and

(iv) Courts and Judicial Proceedings Article, §§**[**8-328**]** *3-827*, 9-108, and 9-121;

(b) Code of Maryland Regulations (COMAR):

(i) 07.01.07**[**,**]***; and*

(ii) 07.02.07**[**,**]***;*

[(iii) 07.06.02.09,

(iv) 07.06.04.10, and

(v) 07.06.07.09; and**]**

(c) Code of Federal Regulations (CFR):

(i) 34 CFR 99**[**, and**]***;*

(ii)42 CFR §2.1 et seq.; and

[(ii)**]** *(iii)* 45 CFR 1340.

[(20)**]** *(24)*—**[**(23)**]** *(27)*(text unchanged)

.03 Procedures.

A. An appeal *of a finding of indicated child abuse or neglect* under this chapter **[**at the request of an individual found responsible by a local department for indicated child abuse or neglect**]** shall consist of a contested case hearing pursuant to State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

B. An appeal *of a finding of unsubstantiated child abuse or neglect* under this chapter **[**at the request of an individual found responsible by a local department for unsubstantiated child abuse or neglect**]** shall consist of:

(1)—(2) (text unchanged)

C.—F. (text unchanged)

.04 Notice of Opportunity for a Hearing.

A. Within 30 days after a local department has completed an investigation of child abuse or neglect, the local department shall send **[**all individuals found responsible for indicated or unsubstantiated child abuse or neglect**]** a notice of action**[**.**]** *to:*

(1) All maltreators; and

(2) All individuals alleged to have abused or neglected a child in a case that resulted in a finding of indicated or unsubstantiated child abuse or neglect with no maltreator identified.

B. The notice shall include:

(1) (text unchanged)

(2) An explanation of how to appeal in accordance with this chapter, including the obligation to pay a filing fee *or request a waiver of the fee*;

(3) A statement that the local department may identify **[**an individual as responsible for child abuse or neglect**]** *a maltreator* in **[**a**]** *the* central registry if the individual:

(a) Is found guilty of any criminal charge arising out of the alleged abuse or neglect; or

(b) **[**Has been found responsible for indicated child abuse or neglect and has:

(i)**]** Unsuccessfully appealed the finding in accordance with this chapter**[**,**]***;* or

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

(4) (text unchanged)

C.—D. (text unchanged)

[E. When child abuse is alleged in an out-of-home setting where more than one child has allegedly been abused or neglected, the local department shall send notice not later than 30 days after the investigation of the out-of-home setting is complete.**]**

[F.**]** *E.* Minor **[**Found Responsible for Child Abuse or Neglect**]** *Appellants*. If the individual **[**found responsible for child abuse or neglect**]** *to whom notice would be sent under §A of this regulation,* is younger than 18 years old and not emancipated, the local department shall send notice to the individual's:

(1) (text unchanged)

(2) **[**Attorney if**]** *If* the individual is a foster child **[**and is represented.**]***:*

(a) To the attorney, if the child is represented; and

(b) To the local department worker assigned to the child's foster care case.

.05 Request for Appeal.

A. Indicated Child Abuse or Neglect. **[**An individual found responsible for indicated child abuse or neglect**]** *A maltreator or any individual who was alleged to have abused or neglected a child in a case that resulted in a finding of indicated child abuse or neglect with no maltreator identified* may appeal the finding by, not later than 60 days after receipt of the local department's notice of action, filing with OAH:

(1) The required filing fee**[**,**]** *or appropriately documented request for a fee waiver;* and

(2) (text unchanged)

B. Unsubstantiated Child Abuse or Neglect. **[**An individual found responsible for**]** *A maltreator in a case of* unsubstantiated child abuse or neglect *or any individual who was alleged to have abused or neglected a child in a case that resulted in a finding of unsubstantiated child abuse or neglect with no maltreator identified* may appeal the finding by forwarding to the local department, not later than 60 days after receipt of the local department's notice of action, a written request for a conference.

C.—D. (text unchanged)

E. If a local department receives a request for a hearing *with a proper fee enclosed or an appropriately documented request for a fee*

waiver, it shall forward the request to OAH not later than **[**10**]** *7* days after receipt.

F. If a local department receives a request for a hearing without the proper fee or appropriately documented request for a fee waiver, it shall return the request to the appellant not later than 7 days after receipt.

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

.06 Stay Pending Disposition of Criminal Charges.

A. An appellant shall notify OAH of:

(1) (text unchanged)

(2) The final resolution of any criminal proceedings arising out of the alleged child abuse or neglect that **[**is**]** *were* pending or brought against the appellant.

B. (text unchanged)

C. If, after final disposition of the criminal proceeding, the appellant is:

(1) Found guilty of any criminal charges arising out of the alleged child abuse or neglect, *including being found guilty and receiving probation before judgment*, OAH shall dismiss the appeal; or

(2) (text unchanged)

.07 Stay Pending Disposition of CINA Proceeding.

A. (text unchanged)

B. If a CINA proceeding is pending, OAH shall stay the hearing until the *child is adjudicated to be a CINA or the* CINA proceeding is *otherwise* concluded.

C. (text unchanged)

.08 Unsubstantiated Child Abuse or Neglect—Conference.

A.—E. (text unchanged)

F. Summary. Within 10 days of the conference, the local department shall send to the appellant a written summary of the conference including:

(1)—(2) (text unchanged)

(3) Procedures *and a contested case hearing request form* for appealing the outcome of the conference in accordance with this chapter.

G. (text unchanged)

.09 Appeal of Outcome of Conference.

A. If, as a result of the conference, the local department does not agree to modify its *unsubstantiated* finding **[**that the appellant is responsible for unsubstantiated child abuse or neglect**]**, the appellant may appeal the outcome of the conference.

B. **[**After receiving the written summary of the conference, an**]** *An* appellant may appeal by, *not later than 60 days after receipt of the local department's summary of conference, filing with OAH:*

(1) **[**Requesting in writing an appeal form from the local department; and**]** *The contested case hearing request form;*

[(2) Sending to OAH not later than 60 days after the date of the summary of the conference:

(a) The appeal form,**]**

[(b)**]** *(2)* The summary of the conference**[**,**]***;* and

[(c)**]** *(3)* The required filing fee *or appropriately documented request for a fee waiver*.

C. If an appellant does not receive a written summary of the conference within 20 days of the conference, the appellant may appeal by:

(1) Requesting **[**in writing**]** an appeal form from the local department; and

(2) Sending to OAH not later than 80 days after the date of the conference:

(a) The appeal form**[**,**]***;* and

(b) The required filing fee *or appropriately documented request for a fee waiver*.

D. OAH shall dismiss the appeal of an individual who has been **[**found responsible for unsubstantiated child abuse or neglect**]** *offered a conference pursuant to Regulation .05B of this chapter* and who has not had a conference, unless the individual can establish that:

(1) The individual requested a conference in accordance with this chapter; and

(2) The local department failed to schedule a conference in accordance with this chapter**[**.**]***; or*

(3) The individual had good cause for failing to attend a scheduled conference.

.10 Appeal of Unexpunged Finding Made Before June 1, 1999.

Upon written request, a local department shall offer an individual found responsible for an unexpunged finding of indicated or unsubstantiated child abuse or neglect made before June 1, 1999, an opportunity to appeal in accordance with this chapter, if the individual has not:

A.—B. (text unchanged)

C. Previously been given notice of the opportunity to request a contested case *hearing*.

.11 Discovery.

A.—B. (text unchanged)

C. By written request made at least 10 days before the hearing, the appellant and the local department have the right to receive, *not later than* 5 days before the hearing, copies of documents and a list of witnesses to be presented by the other party at the hearing.

D.—E. (text unchanged)

.12 Conduct of Hearing.

A.—D. (text unchanged)

E. An appellant's case may be presented by:

(1) The appellant; or

(2) An attorney representing the appellant.

.13 Dismissal or Voluntary Withdrawal.

A.—B. (text unchanged)

C. If the local department notifies OAH in writing of its modification of the finding to ruled out, OAH shall cancel the hearing and notify the appellant.

[C.**]** *D.* Dismissal or voluntary withdrawal of an appeal or request for an appeal automatically affirms the local department's finding and, in the case of a finding of indicated abuse or neglect, the local department's right to identify **[**the**]** *any* individual **[**as**]** *found* responsible for child abuse or neglect in a central registry.

.14 Decision and Order.

A. Not later than 45 days after the hearing, OAH shall issue a decision and order to the:

(1) (text unchanged)

(2) Appellant's attorney;

[(2)**]** (3) Local department*'s appeal representative or attorney; and*

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

B. The decision and order shall:

(1) (text unchanged)

(2) Contain a determination as to whether the local department **[**has**]** established by a preponderance of the evidence that its finding **[**of the appellant as responsible for child abuse or neglect were**]** *was* consistent with the law and supported by credible evidence.

C. (text unchanged)

D. If the ALJ determines that the local department's finding *or the identification* of *a maltreator* **[**the appellant as responsible for child abuse or neglect**]** was not consistent with the law or not supported by

credible evidence, the ALJ shall order the local department to do **[**any**]** *one or more* of the following:

(1) (text unchanged)

(2) Expunge all references to the appellant as responsible for child abuse or neglect; **[**or**]**

(3) In the case of a finding in which the local department did not identify a maltreator, find the appellant responsible for child abuse or neglect; or

[(3)**]** *(4)* Maintain the finding and change the type of maltreatment from:

(a) Abuse to neglect**[**,**]***;* or

(b) (text unchanged)

E.—F. (text unchanged)

G. If the ALJ orders the local department to modify or expunge the finding, or expunge reference to the **[**appellant as responsible for child abuse or neglect**]** *maltreator*, the local department shall take the action within 20 days and promptly notify the appellant and OAH that it has completed all required action.

.15 [Tape] Recordings—Expungement.

OAH may destroy the **[**tape**]** recording of a contested case 1 year after the date of the decision unless either party has specifically requested that the **[**tape**]** recording not be destroyed.

TED DALLAS
Secretary of Human Resources

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.01 General

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

Notice of Proposed Action

[15-051-P]

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

Statement of Purpose

The purpose of this action is to establish regulations for Fishery Management Areas (FMAs). Currently, some regulations appear in COMAR 08.02.11 Fishing in Nontidal Waters, while other rules for FMAs are in place through Departmental policy. This action will make the rules for FMAs clearer to the public.

Fishery Management Areas are maintained to support fishery resources, operate fish culture facilities, or provide access for fishing or other outdoor recreational activities. The areas may also provide protection from development or deforestation for sensitive or high quality watersheds. There are two types of FMAs: Fishery Management Propagation Areas and Fishery Management Public Fishing Areas. This action will clarify which type of FMA each property is, as well as the rules which apply to the two types of areas. Fishery Management Propagation Areas are reserved for the fish production and management activities required to meet fish management objectives. Fishery Management Public Fishing Areas provide angling access and other outdoor recreation opportunities such as boating, hiking, hunting and picnicking. This action will clarify which activities are permissible in the specific areas.

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 Fisheries Management Areas Regulations, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.13 Fishery Management Areas.

A. The fishery management areas of the State consist of the units in §§B and C of this regulation as delineated on maps filed in the Office of the Secretary of Natural Resources.

B. Fishery Management Propagation Areas.

(1) The following areas are Fishery Management Propagation Areas:

(a) Albert Powell Hatchery — Washington County;

(b) Bear Creek Hatchery — Garrett County;

(c) Lewistown Work Center — Frederick County;

(d) Manning Hatchery — Charles County;

(e) Piney Point Aquaculture Center — St. Mary's County; and

(f) Unicorn Lake Hatchery — Queen Anne's County.

(2) Public access to any Fishery Management Propagation Area is prohibited except with prior permission of the facility staff or as otherwise posted.

C. Fishery Management Public Fishing Areas.

(1) The following areas are Fishery Management Public Fishing Areas:

(a) Big Mill Pond — Queen Anne's County;

(b) Brownsville Pond — Washington County;

(c) Brunswick Pond — Frederick County;

(d) Bynum Run Pond — Harford County;

(e) Evitts Creek Pond — Allegany County;

(f) Forest Hill Lake — Harford County;

(g) Frank Bentz Pond — Frederick County;

(h) Hughsville Pond — Charles County;

(i) North Branch Potomac River — Folly and Laurel Runs — Garrett County;

(j) North Branch Potomac River — Gary A. Yoder Landing — Allegany County;

(k) North Branch Potomac River — McCoole — Allegany County;

(l) Rising Sun Pond — Cecil County;

(m) Smithville Lake — Caroline County;

(n) Unicorn Lake — Queen Anne's County;

(o) Urbana Lake — Frederick County;

(p) Urieville Lake — Kent County; and

(q) Wye Mills Lake — Queen Anne's County.

(2) Public access to any Fishery Management Public Fishing Area is allowed from the hours of 5:30 a.m. to 10 p.m.

(3) Camping.

(a) For the purpose of this regulation, "camping" means erecting tents or other shelters for the purpose of residing temporarily upon the property overnight.

(b) A person may not camp on Fishery Management Public Fishing Areas except on designated sites or by written permit, or both.

(4) Use of Vehicles.

(a) For the purpose of this regulation, "vehicle" means a vehicle or vessel propelled by mechanical power that is capable of travelling on land, snow, or ice.

(b) A person may not operate any vehicle on a Fishery Management Public Fishing Area without written permission of the Fisheries Service except on those roads, lanes, or areas which are open to automobile traffic or which are specifically marked by the Fisheries Service.

(5) Feeding Wildlife.

(a) In this section, "wildlife" has the meaning stated in Natural Resources Article, §10-101(cc), Annotated Code of Maryland.

(b) Except for lawful fishing and hunting activities, a person may not feed wildlife in a Fishery Management Public Fishing Area.

D. Hunting and Trapping.

(1) Hunting and trapping are only allowed in the areas described in §B of this regulation by written permission of the Fisheries Service.

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

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

(b) North Branch Potomac River — McCoole; and

(c) Urbana Lake.

(3) Trapping is only allowed in the areas described in §C of this regulation by written permission of the Fisheries Service.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.03 Crabs

Authority: Natural Resources Article, §§4-215 and 4-803, Annotated Code of Maryland

Notice of Proposed Action

[15-053-P]

The Secretary of Natural Resources proposes to amend Regulations **.03**, **.06**, **.07**, and **.14** under **COMAR 08.02.03 Crabs**.

Statement of Purpose

The purpose of this action is to increase the minimum size for peeler crabs for the 2015 crabbing season in the Chesapeake Bay and its tidal tributaries and to clarify the requirements for marking crabbing gear. The minimum size for peeler crabs will be increased from 3¼ inches to 3½ inches from April 1 to July 14 for both the commercial and recreational fisheries in the Chesapeake Bay and its tidal tributaries. The minimum size for peeler crabs is already 3½ inches from July 15 to December 15, so no change is required for the second half of the season. The current regulations do not make necessary distinctions between the gear marking requirements for the blue crab fisheries in the Chesapeake Bay and its tidal tributaries and the Atlantic Ocean, its coastal bays and their tidal tributaries; this action will clarify how gear must be marked in both fisheries.

The estimated abundance of spawning females measured in the 2013—2014 winter dredge survey was just below the minimum safe threshold of 70 million crabs. Maryland, Virginia and the Potomac River Fisheries Commission are working together to provide additional protection for spawning-age female crabs in the fall of 2014 and spring of 2015. Increasing the minimum size of peeler crabs in the first half of the season, along with other harvest reductions in the Bay jurisdictions, will help to achieve the goal of reducing Bay-wide blue crab harvest by 10 percent. Raising the peeler size limit to 3½ inches from April 1 — July 14 for recreational and commercial fisheries will allow more crabs to molt to maturity and successfully mate and spawn. The size limit is already 3½ inches for the rest of the season. This action will be for 2015 only, and retains the current seasons for crabs in both the Chesapeake Bay and Atlantic fisheries.

This action also clarifies the marking requirements for crabbing gear. Current regulations do not reflect the differences in the commercial and recreational fisheries, or the difference between the Chesapeake Bay and its tidal tributaries and the Atlantic Ocean, its coastal bays and their tidal tributaries. This action will clarify that commercial crabbers mark their gear with their commercial ID number, recreational crabbers in the Chesapeake Bay and its tidal tributaries mark their gear with their DNRid number, and recreational crabbers in the Atlantic Ocean, its coastal bays and their tidal tributaries mark their gear with either their DNRid number or their name and address.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action has an economic impact, however the extent of the impact is indeterminable.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Increased Minimum Size for Peeler Crabs	(-)	Indeterminable
(2) Greater Abundance of Larger Crabs	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

D(1). This action eliminates the ability of crabbers to harvest peeler crabs between 3-1/4" and 3-1/2" from April 1 to July 14 by increasing the minimum size to 3-1/2" year-round. This will result in a negative economic impact to crabbers who harvest peeler crabs. Although the smaller crabs will no longer be legal for harvest, they make up the smallest, least economically valuable segment of the peeler crab fishery. The magnitude of the effect of this action depends on the makeup of the crab population. If the population has a higher amount of smaller crabs, this action will have a greater effect; if the population has a higher percentage of larger crabs, this action will have a lesser effect. The actual effect is not possible to determine

prior to the crabbing season.

D(2). Because this action increases the minimum size of peeler crabs, the assumption is that there will be more crabs available at larger sizes. This will be achieved through crabs remaining in the water for at least one additional molting cycle. While some of these crabs will be removed from the population through predation or other natural causes, some of the crabs that would have been harvested at the smaller, less economically valuable size will now be caught at a larger, more economically valuable size. It is not possible to determine how great of a positive impact this will achieve for the industry.

Economic Impact on Small Businesses

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

The proposed action has a meaningful economic impact on small businesses. Please see analysis in Part A.II.D, referring to the regulated industry which is comprised of commercial licensees, some of whom are 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 Peeler Crab and Crabbing Gear Marking Regulations, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through February 23, 2015. A public hearing will be held on Thursday, February 12, 2015, at 6 p.m., at the Wicomico Public Library, 122 S. Division Street, Room 4, Salisbury, MD 21801.

.03 Trotlines.

A. An individual may not set or fish a trotline within 100 feet of another individual's set **[**gear**]** *trotline, collapsible crab trap, or net ring*.

B.—D. (text unchanged)

E. Float Requirements.

(1)—(3) (text unchanged)

(4) Floats shall be marked with a buoy bearing the owner's **[**DNR id number.**]***:*

(a) DNRid number, if recreationally crabbing in the Chesapeake Bay or its tidal tributaries;

(b) Name and address, if recreationally crabbing in the Atlantic Ocean, its coastal bays, or their tidal tributaries; or

(c) Commercial license number.

.06 Collapsible Crab Traps and Crab Net Rings.

A. An individual may not set or fish a crab net ring or collapsible crab trap within 100 feet of another individual's set **[**gear**]** *trotline, collapsible crab trap, or net ring*.

B.—C. (text unchanged)

D. A collapsible crab trap or crab net ring which is not attached to a pier, wharf, or boat shall be marked with a buoy bearing the owner's **[**DNRid number.**]***:*

(1) DNRid number, if recreationally crabbing in the Chesapeake Bay or its tidal tributaries;

(2) Name and address, if recreationally crabbing in the Atlantic Ocean, its coastal bays, or their tidal tributaries; or

(3) Commercial license number.

.07 Crab Pots.

A.—C. (text unchanged)

D. General Requirements.

(1)—(2) (text unchanged)

(3) Notwithstanding §§E and G of this regulation, a crab pot set for recreational purposes shall be:

(a) (text unchanged)

(b) Marked with the owner's **[**DNRid number.**]***:*

(i) DNRid number, if crabbing in the Chesapeake Bay or its tidal tributaries; or

(ii) Name and address, if crabbing in the Atlantic Ocean, its coastal bays, or their tidal tributaries.

(4)—(8) (text unchanged)

E.—H. (text unchanged)

.14 General Prohibitions.

A.—D. (text unchanged)

E. Notwithstanding Natural Resources Article, §4-809, Annotated Code of Maryland, a person may not:

(1)—(5) (text unchanged)

(6) **[**Catch**]** *Except as provided in §E(7) of this regulation, catch* or possess more than 10 peeler crabs per bushel or more than 20 per float which are:

(a) Less than 3-1/4 inches across the shell from tip to tip of the spike during the period from April 1 through July 14; and

(b) Less than 3-1/2 inches across the shell from tip to tip of the spike during the period from July 15 through December 15; **[**or**]**

(7) Catch or possess more than 10 peeler crabs per bushel or more than 20 per float which are:

(a) Less than 3-1/4 inches across the shell from tip to tip of the spike during the period from April 1, 2015 through July 14, 2015 in the Atlantic Ocean, its coastal bays and their tributaries;

(b) Less than 3-1/2 inches across the shell from tip to tip of the spike during the period from July 15, 2015 through December 31, 2015 in the Atlantic Ocean, its coastal bays and their tributaries; and

(c) Less than 3-1/2 inches across the shell from tip to tip of the spike in the Chesapeake Bay and its tidal tributaries during the period from April 1, 2015 through December 15, 2015; or

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

F.—G. (text unchanged)

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

Notice of Proposed Action

[15-054-P]

The Secretary of Natural Resources proposes to:

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

(2) Amend Regulations **.03** and **.04**, repeal existing Regulation **.07**, and adopt new Regulation **.07** under **COMAR 08.02.23 Shellfish Aquaculture and Leasing**.

Statement of Purpose

The purpose of this action is to update the list of violations for which a person may be suspended or revoked from shellfish aquaculture and implement a demonstration lease program. The proposed action adds a section to Regulation .04 that describes the reasons for denying, suspending or revoking a shellfish harvester permit or registration card. An appeal process has also been added. This allows the Department to take into account an individual's violations in other commercial fisheries when issuing a shellfish aquaculture harvester permit or registration card.

The proposed action repeals the current Regulation .07 and moves the items in that regulation to more appropriate locations. The proposed action clarifies fishing activities in a leased area. When the shellfish aquaculture chapter was adopted the regulations allowed for normal fishing activities in a leased area, including crabbing and

fishing as long as the activity does not destroy or damage shellfish or gear which may be placed there. The term "fishing" generally relates to finfish so the proposed action clarifies that crabbing was intended to be included. Since certain gear may not damage or destroy the leased area, but may impede management of the area by the lessee, the proposed action clarifies the language by adding that any activity may not interfere with management of the leased area.

The proposed action creates a new regulation for the implementation of a demonstration leasing program. The Department is currently engaged in an effort to establish a demonstration leasing program that will provide a process for education, research and not-for-profit based institutions and companies to obtain a lease of state waters for shellfish aquaculture. These leases will differ significantly from the commercial aquaculture leases that are issued in that they will be used for research, education and to expand our knowledge related to the ecological benefits of growing shellfish.

Natural Resources Article, §4-11A-11, Annotated Code of Maryland, establishes certain restrictions and requirements for demonstration leases. The proposed action includes requirements for the application, lease usage (educational, research, ecological, source of seed, amount, methods of growth, monitoring, etc.), application review process, and prohibited activities and locations. The proposed action requires an operator card for individuals working on a lease. There will be no fees for the lease application or lease rental. The information generated from the demonstration leases will help boost citizen awareness of the benefits associated with protecting, conserving and restoring our Bay's shellfish resources while promoting environmental stewardship.

The proposed action was discussed at the July meetings of the Aquaculture Coordinating Council, Tidal Fisheries Advisory Commission and Sport Fisheries Advisory Commission.

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 Shellfish Aquaculture Regulations, Regulatory Staff, Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

08.02.05 Fish

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

.02 General Fishing Prohibitions.

A.—O. (text unchanged)

P. Fishing and Crabbing in a Leased Area. Fishing and Crabbing are permitted in an area that has been leased for shellfish aquaculture in accordance with COMAR 08.02.23 if the fishing or crabbing activity does not:

(1) Destroy or damage shellfish or gear which may be planted or secured there; or

(2) Interfere with the management of the leased area.

08.02.23 Shellfish Aquaculture and Leasing

Authority: Natural Resources Article, §§4-11A-02, 4-11A-09, 4-11A-11, 4-11A-12, and 4-11A-19, Annotated Code of Maryland

.03 *Commercial* Lease Procedures.

A. Aquaculture Activities on Submerged Land. **[**Prior**]** *Except for demonstration leases, prior* to engaging in aquaculture activities on submerged land in waters of the State, including the areas listed in Regulations .05 and .06 of this chapter, a person shall:

(1)—(2) (text unchanged)

B. (text unchanged)

[C. Demonstration Lease.

(1) A person may apply for a demonstration lease on a form provided by the Department as described in Regulation .03A and B of this chapter.

(2) There are no application or rental fees for a demonstration lease.**]**

[D.**]** *C.* Reporting. A leaseholder shall submit to the Department an annual report **[**on a form provided**]** *as required* by the Department not later than December 31.

[E.**]** *D.*— **[**H.**]** *G.* (text unchanged)

[I.**]** *H.* Gear.

(1) (text unchanged)

(2) The leaseholder shall be responsible and liable for equipment, gear, or *aquaculture-related* material:

(a)—(b) (text unchanged)

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

[K.**]** *J.* Surrender of a Lease. A lease may be surrendered by **[**completing a form provided by**]** *providing written notice to* the Department.

.04 Shellfish Aquaculture Harvester Permit.

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

B.—I. (text unchanged)

J. Denial, Suspension, and Revocation.

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

(a) Submits an incomplete or untruthful application;

(b) Has commercial fishing privileges that are currently suspended or revoked for shellfish violations;

(c) Had all commercial fishing privileges revoked; or

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

(2) Suspension or Revocation. A shellfish aquaculture harvester permit or a shellfish aquaculture harvester registration card may be suspended or revoked by the Department if the individual:

(a) Violates:

(i) A provision of this chapter;

(ii) A provision of Natural Resources Article, Title 4, Subtitle 11A, Annotated Code of Maryland;

(iii) COMAR 08.02.04.15C(3);

(iv) A term or condition of the permit or registration card; or

(v) A term or condition of a Shellfish Lease Agreement;

(b) Receives a conviction for taking shellfish:

(i) From a closed or prohibited area;

(ii) With illegal gear;

(iii) More than 2 hours after sunset or any time before sunrise;

(iv) During the closed season; or

(v) That are under the minimum size limit;

(c) Receives more than one conviction related to the illegal harvest of shellfish within a two year period;

(d) Has commercial fishing privileges that are currently suspended or revoked for shellfish violations; or

(e) Had all commercial fishing privileges revoked.

(3) Appeal.

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

(b) If an individual submits a written request for a hearing to the Department within 30 days after the date that the notice required under this paragraph is mailed, the Department shall:

(i) Hold a hearing after providing at least 10 days' notice to the individual; and

(ii) Conduct the hearing in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(c) The Department may deny an application for, or suspend or revoke a shellfish aquaculture harvester permit or a shellfish aquaculture harvester registration card issued under this chapter without a hearing if the individual:

(i) Does not submit a written request for a hearing to the Department within 30 days after the date that the notice required under this paragraph is mailed;

(ii) Fails to appear for a scheduled hearing for which the Department provided notice; or

(iii) Is prohibited from holding a permit or registration card as the result of a prior adjudication, settlement agreement, or consent order.

.07 Demonstration Lease Procedures.

A. Eligibility. The Department may only issue a demonstration lease to be used exclusively for educational, conservation, or ecological purposes to:

(1) A public high school;

(2) An incorporated college or university within the State;

(3) A 4-H club; or

(4) A nonstock, nonprofit corporation organized under the laws of the State.

B. Application.

(1) Prior to obtaining a demonstration lease, an eligible group or organization shall complete and submit an application on a form provided by the Department.

(2) The application shall include:

(a) Documentation that the applicant meets the qualifications set forth in Natural Resources Article, §4-11A-11, Annotated Code of Maryland;

(b) The name and contact information of an employee of the applicant group or organization who will be responsible for ensuring that the requirements of this regulation are met;

(c) The purpose of the demonstration lease;

(d) A declaration that the applicant intends to actively use the leased area for demonstration purposes; and

(e) A proposed plan for active use of the demonstration lease which shall include:

(i) The applicant's source and quantity of shellfish or shellfish seed;

(ii) The quantity of shellfish or shellfish seed that the applicant expects to plant on the leased area during the initial 3 years of the lease;

(iii) A description of the activities that will occur on the leased area; and

(iv) A description of the labor, materials, and equipment to be used by the applicant.

C. Application Review Process.

(1) If an application for a demonstration lease in the Chesapeake Bay or in the Atlantic Coastal Bays meets the requirements of this regulation and Natural Resources Article, §4-11A-11, Annotated Code of Maryland:

(a) The applicant for the lease shall mark the proposed area with a stake; and

(b) The Department shall:

(i) Advertise the application on the website of the Department and once a week for 2 weeks in a newspaper published in the county or counties where the proposed lease is to be located;

(ii) Notify the owners of property directly in front of the proposed activity;

(iii) Notify each Chair of an Oyster Committee in the county in which the proposed activity is located; and

(iv) Notify other interested parties that the Department deems appropriate.

(2) Within 30 days of publication of the last advertisement under §C(1) of this regulation, any person who has a specific right, duty, privilege, or interest that is different from that held by the general public and may be adversely affected by the proposed lease may file a petition with the Department protesting the issuance of the lease.

(3) The protest shall be heard in accordance with the requirements of the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(4) The Department shall hold a public informational meeting on the issuance of a lease on the request of any person.

(5) After termination of the period prescribed in §C(2) of this regulation for filing a petition or after a final decision dismissing a protest, the Department shall survey the proposed leased area and issue a lease to the applicant.

(6) The Department, as it considers necessary to protect the public health, safety, and welfare, may:

(a) Deny a lease application for reasonable cause; or

(b) Include any conditions in a lease.

D. Fees. There are no application or rental fees for a demonstration lease.

E. Locations. In addition to restrictions provided in Natural Resources Article, §4-11A-11, Annotated Code of Maryland, a lease may not be located in the Assateague Island National Seashore as described in 16 U.S.C. §459f.

F. Prohibited Activities.

(1) Alterations, including adding any type of fill or sediment other than shell to the existing condition of the lease, are not permitted without written permission from the Department.

(2) Shell present in the leased area at the time the lease is issued may not be removed from the leased area without the written permission of the Department.

(3) Permanent structures of any kind may not be placed on the leased area without written permission from the Department.

(4) Shellfish may not be harvested from the leased area for commercial or human consumption purposes.

G. Lease Markers and Equipment. A leaseholder shall:

(1) Place a minimum of four poles at the corners of the lease perimeter;

(2) Mark each pole with an 8-inch by 12-inch marker displaying the name of the leaseholder and the lease number;

(3) Maintain and meet any standards for corner marker structures as described by the Department on its website;

(4) Permanently and individually mark all equipment or manmade material used on the lease with the lease number and name of the leaseholder; and

(5) Be responsible and liable for equipment, gear, or aquaculture-related material that has been found adrift or unattended outside the boundaries of the lease area.

H. Operators.

(1) The Department shall issue an operator card to the lessee at the time of lease approval.

(2) When one or more individuals are engaged in demonstration activities on the leased area, an individual authorized by the lessee shall be present and in possession of the operator card.

(3) Any individual engaged in demonstration activities on a leased area shall comply with the terms and conditions of the lease agreement for that area.

I. Reporting. A leaseholder shall submit to the Department an annual report as required by the Department not later than December 31.

J. Surrender of a Lease. A lease may be surrendered by providing written notice to the Department.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

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

Notice of Proposed Action

[15-055-P]

The Secretary of Natural Resources proposes to amend Regulation **.29** under **COMAR 08.02.05 Fish**.

Statement of Purpose

The purpose of this action is to amend the snapper grouper complex to change the commercial harvest limits of tilefish. Maryland's regulations limiting harvest of species within the Snapper Grouper complex were adopted to address coast wide stock concerns. Regulations were based on those of state and federal partner agencies that manage snapper grouper species. Our partner agencies specify limits of tilefish in pounds of whole fish and pounds of fish that have been gutted to ensure consistency in landings data. Partner agencies also limit the amount of blueline tilefish that may be harvested. The proposed action modifies the commercial harvest limits of tilefish to be consistent with our partner agencies.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have a positive impact on the commercial industry.

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	
D. On regulated industries or trade groups:		
(1) Commercial Harvesters	(+)	$310 per trip
(2) Dealers/Processors	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

D(1). The proposed action raises the harvest limit for tilefish. Since more harvest is allowed, harvesters may have a positive economic impact. The actual impact will be determined by the presence of fish, fishing effort and the market. The whole fish weight, rather than gutted weight, is being used to calculate the impact because the Atlantic Coastal Cooperative Statistics Program reports fish in whole pounds. There were a total of 4200 pounds of tilefish harvested in 2013 which yielded an average of $1.55 per pound. At that rate an extra 200 pounds per trip translates to $310 more per trip.

D(2). If harvesters land more tilefish, dealers and processors may benefit economically because they will have more fish to sell. The actual amount is indeterminable because it depends on actual harvest and the market.

Economic Impact on Small Businesses

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

The increase in allowable harvest of tilefish may positively impact harvesters, dealers and processors.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Snapper Grouper Regulations, Regulatory Staff, Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.29 Snapper Grouper Complex.

A.—D. (text unchanged)

E. Commercial.

(1) The weight limits of this section are the total combined weight of all species defined as tilefish or grouper.

(2) Whole and gutted tilefish may not be landed in the same trip.

[(1)**]** *(3) Tilefish.* Except as provided in **[**§E(2)**]** *§E(5)* of this regulation, a commercial licensee may not harvest, possess, or land more than:

(a) **[**300**]** *500* pounds, *whole weight*, **[**regardless of the species,**]** of tilefish, **[**listed in §A(1) of this regulation**]** *which may not include more than 300 pounds, whole weight, of blueline tilefish per trip*; **[**and**]** *or*

(b) 455 pounds, gutted weight, of tilefish, which may not include more than 273 pounds, gutted weight, of blueline tilefish per trip.

[(b)**]** *(4) Grouper. A commercial licensee may not harvest, possess, or land more than* 175 pounds**[**, regardless of the species,**]** of grouper **[**listed in §A(2) of this regulation**]** *per trip.*

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

F. (text unchanged)

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.15 Striped Bass

Authority: Natural Resources Article, §4-215, Annotated Code of Maryland

Notice of Proposed Action

[15-052-P]

The Secretary of Natural Resources proposes to amend Regulation **.07** under **COMAR 08.02.15 Striped Bass**.

Statement of Purpose

The purpose of this action is to remove the numerical quota for the Atlantic Ocean striped bass fishery from regulation and add language to establish the quota for that fishery as the quota set by the Atlantic States Marine Fisheries Commission (ASMFC). The quota is set based on striped bass abundance and fishing mortality. The change is being made so that when ASMFC changes the quota, the Department does not need to change the regulation to ensure the fishery is managed to the correct number. This is how the Department manages the Chesapeake Bay fishery.

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 Atlantic Ocean Commercial Striped Bass Regulations, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.07 Commercial Fishery.

A. (text unchanged)

B. Atlantic Ocean, its Coastal Bays and Their Tributaries.

(1) Quota. The annual target harvest for the commercial fishery is **[**126,396 pounds**]** *the quota set by the Atlantic States Marine Fisheries Commission*.

(2)—(7) (text unchanged)

C.—F. (text unchanged)

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 19 FOREST CONSERVATION

08.19.03 Model Forest Conservation Ordinance

Authority: Natural Resources Article, §§5-1601—5-1613, Annotated Code of Maryland

Notice of Proposed Action

[15-069-P]

The Department of Natural Resources proposes to amend Regulation **.01** under **COMAR 08.19.03 Model Forest Conservation Ordinance**.

Statement of Purpose

The purpose of this action is to revise the fee-in-lieu amounts stated in the Model Ordinance to reflect rate of inflation as required by statute.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This amendment will require those complying with local government's forest conservation ordinances and cannot plant trees to pay an additional half cent to one cent per square foot of required mitigation prior to obtaining permits.

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:	(-)	Negligible
E. On other industries or trade groups:	(-)	Negligible
F. Direct and indirect effects on public:	NONE	

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

D. Rate increase too small to calculate impact

E. Rate increase too small to calculate 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 Marian Honeczy, Supervisor, Urban and Community Forestry, Maryland Forest Service, Department of Natural Resources, 580 Taylor Avenue, E-1, or call 410-260-8511, or email to marian.honeczy@maryland.gov, or fax to 410-260-8595. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Ordinance for Local Program.

The following Model Ordinance shall be to assist and guide in the development of a local program. This Model Ordinance will further enable each unit of local government with planning and zoning authority to determine the size, location and orientation of forest to be retained, and prioritize tracts of land for reforestation and afforestation. Although it is the intention of the Department that this chapter be liberally construed to accomplish its purpose, a local authority shall demonstrate that the substantive provisions of each article are incorporated in the local program. Some local authorities may be able to adopt this Ordinance with only minor changes appropriate to each jurisdiction. Other local authorities may choose to use elements of this Ordinance to amend existing laws, statutes, or Ordinances.

Model Forest Conservation Ordinance Ordinance Number _____

An Ordinance for the purpose of prohibiting certain development projects from cutting or clearing certain forests within the Community of _____ unless a forest stand delineation and a forest conservation plan are in effect.

Article I—Article IX (text unchanged)

Article X Payment Instead of Afforestation and Reforestation.

10.1 Forest Conservation Fund.

A. (text unchanged)

B. If a person subject to this Ordinance demonstrates to the satisfaction of the Department that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person shall contribute money into the county forest conservation fund:

(1) For a project inside a priority funding area, as defined in Natural Resources Article, §5-1610, Annotated Code of Maryland, at a rate of **[**30 cents**]** *30.5 cents* per square foot of the area of required planting **[**until September 30, 2014, when the amount shall be**]** *with the amount* adjusted **[**for inflation yearly**]** *by the Department based on the previous year's inflation rate* **[**as determined by the Department annually by regulation**]**; and

(2) For a project outside a priority funding area, at a rate of **[**36 cents**]** *36.6 cents* per square foot of the area of required planting **[**until September 30, 2014, when the amount shall be 20 percent higher than the rate established for a project inside a priority funding area**]**.

C.—G. (text unchanged)

JOSPEH P. GILL
Secretary of Natural Resources

Subtitle 19 FOREST CONSERVATION

08.19.04 State Forest Conservation Program

Authority: Natural Resources Article, §§5-1601—5-1612, Annotated Code of Maryland

Notice of Proposed Action

[15-068-P]

The Department of Natural Resources proposes to amend Regulation **.09** under **COMAR 08.19.04 State Forest Conservation Program**.

Statement of Purpose

The purpose of this action is to include language stating the revised fee-in-lieu amount in the regulations that reflects the rate of inflation as required by statute.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This amendment will require those complying with the state's forest conservation program and cannot plant trees to pay an additional half cent to one cent per square foot of required mitigation prior to obtaining permits.

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

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

B. Rate increase too small to calculate impact

D. Rate increase too small to calculate impact

E. Rate increase too small to calculate 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 Marian Honeczy, Supervisor, Urban and Community Forestry, Maryland Forest Service, Department of Natural Resources, 580 Taylor Avenue, E-1, or call 410-260-8511, or email to marian.honeczy@maryland.gov, or fax to 410-260-8595. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.09 State Forest Conservation Fund.

A. — C. (text unchanged)

D. Payment into the fee-in-lieu fund shall be determined by the Department and the rate amount shall be adjusted yearly for inflation based on the previous year's inflation rates:

(1) For a project inside a priority funding area, as defined in Natural Resources Article, §5-1610, Annotated Code of Maryland , at a rate of 30.5 cents per square foot of the area required planting; and

(2) For a project outside a priority funding area, at a rate of 36.6 cents per square foot of the area of required planting.

JOSEPH P. GILL
Secretary of Natural Resources

Title 09
DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 03 COMMISSIONER OF FINANCIAL REGULATION

09.03.06 Mortgage Lenders

Authority: Financial Institutions Article, §§2-105.1 and 11-503, Annotated Code of Maryland

Notice of Proposed Action

[15-071-P]

The Commissioner of Financial Regulation proposes to amend Regulation **.02** and adopt new Regulations **.24** and **.25** under **COMAR 09.03.06 Mortgage Lenders**.

Statement of Purpose

The purpose of this action is to require licensed mortgage servicers to provide the Commissioner of Financial Regulation with information about the transfer or sale of mortgage servicing rights where the transfer or sale includes 5,000 or more loans. The proposed regulations also establish obligations for all licensed mortgage servicers who engage in transfers or sales of servicing rights as either the party obtaining the right to service the loan or the party transferring the right to service the loan. The proposed regulation is a response to a significant shift in the market for mortgage servicing rights, which has been fueled by large deals to transfer or sell mortgage servicing rights. The shift in the market for mortgage servicing rights has produced a rapid expansion in market share for non-bank, state-regulated mortgage servicers, and a concomitant reduction in market share for federally regulated depository institutions.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The reporting requirement will have a minimal economic impact on mortgage servicers that are licensed by the Commissioner of Financial Regulation. The reporting requirement is narrowly tailored to only apply to transactions for the transfer or sale of servicing rights of 5,000 or more loans. The Commissioner arrived at this threshold by researching past deals for transfers of mortgage servicing rights involving state-licensed mortgage servicers using public filings. Due to the limited number of transactions that the reporting requirement will apply to, the economic impact in Maryland is expected to be small. Additionally, the Commissioner expects that licensed mortgage servicers will be able to comply with the new obligations for mortgage servicing transfers without any significant additional expenditures. The proposed regulations do not mandate that a servicer maintain any particular policies and procedures relating to transfer of mortgage servicing rights. The proposed regulations do impose specific obligations on transferor and transferee servicers, but the Commissioner feels that these obligations will not have a significant economic impact, since they are generally consistent with current industry practice and reflect core functions of the mortgage servicer business model, such as payment processing and loss mitigation activity.

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:	(-)	Minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Economic benefits to consumers	(+)	Indeterminable

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

D. The assumption is that the economic impact of the reporting requirement on licensed mortgage servicers will be mitigated by two factors: (1) the 5,000 loan threshold that triggers the reporting requirement, and (2) the fact that mortgage servicers should already collect much of the data required by the proposed regulation before executing a contract for the transfer or sale of servicing rights. The economic impact of the new obligations related to all mortgage servicing transfers is also expected to be minimal. This assumption is based on the fact that the obligations focus heavily on loss mitigation, which will only apply to servicers that are involved in the transfer or sale of servicing rights for delinquent mortgage loans. Furthermore, many of the obligations are already industry standards, such as the obligation to accept and continue processing pending loss mitigation applications.

F. The establishment of a reporting requirement for mortgage servicing transfers should lead to economic benefits for Maryland consumers. The assumption is that the reporting requirement will ensure that the Commissioner is able to adequately assess potential risks to the safety and soundness of larger nonbank servicers due to rapid growth. The information will also allow the Commissioner to address any negative impacts that a transfer or sale of servicing rights may have had on a particular Maryland consumer. To the extent that the proposed regulations help the Commissioner ensure the safety and soundness of larger nonbank mortgage servicers and address loan-level issues, Maryland consumers will benefit from this action. The establishment of obligations related to all transfers or sales of mortgage servicing rights involving licensed mortgage servicers should also produce economic benefits for consumers. The assumption is that compliance with the framework established by the proposed regulations will mitigate existing problems with larger transfers, including interruptions in service to distressed borrowers.

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 Jedd Bellman, Assistant Commissioner for Enforcement and Compliance, Division of Financial Regulation, Department of Labor, Licensing and Regulation, 500 North Calvert Street, Room 402, or call 410-230-6390, or email to jedd.bellman@maryland.gov, or fax to 410-333-0475. Comments will be accepted through March 2, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (19) (text unchanged)

(20) Loan modification.

(a) "Loan modification" means a change to one or more of the terms of a mortgage loan.

(b) "Loan modification" includes, but is not limited to, one or more of the following:

(i) A reduction in interest rate;

(ii) A conversion from a variable interest rate to a fixed interest rate;

(iii) An extension of term length; and

(iv) A reduction in principal.

(21) "Loan mitigation option" means an alternative to foreclosure offered by the owner or assignee of a mortgage loan that a mortgage servicer makes available to the borrower.

(22) "Master Servicer" means a mortgage servicer that owns the right to service a mortgage loan.

[(20)**]** *(23)* — **[**(22)**]** *(25)* (text unchanged)

(26) "Mortgage servicer" means a person that engages in one or more of the following actions:

(a) Collects or receives one or more of the following types of payments on behalf of the owner of the mortgage loan or another third party, including a master servicer:

(i) Principal;

(ii) Interest;

(iii) Tax;

(iv) Insurance; or

(v) Any other payment due under the applicable security instrument.

(b) Evaluates borrower eligibility for loss mitigation options offered by the owner of the mortgage loan;

(c) Communicates to borrowers regarding loss mitigation options offered by the owner of the mortgage loan;

(d) Is responsible for any other action taken to protect the secured party's interest in the property under the applicable security instrument, including:

(i) Maintenance of hazard and mortgage insurance coverage; and

(ii) Preservation of the property.

(e) Conducts or supervises the foreclosure process, except if the person is an attorney acting as a substitute trustee in a foreclosure action under a deed of trust; and

(f) Makes or procures a mortgage loan if the person is also the holder of the mortgage servicing right or has been delegated one or more of the functions described in §B(26)(a)-(e) of this regulation by the holder of the mortgage servicing right.

(27) "Mortgage servicing right" means the right to perform one or more of the functions listed in §B(26)(a)-(e) of this regulation.

[(23)**]** *(28)* — **[**(26)**]** *(31)* (text unchanged)

(32) "Subservicer" means a mortgage servicer that does not own the mortgage servicing right, but that services a mortgage loan on behalf of, and under an agreement with, a master servicer.

(33) "Transfer Date" means the date on which the physical transfer of the servicing or subservicing responsibility to the transferee servicer or subservicer occurs.

(34) Transfer of servicing rights.

(a) "Transfer of servicing rights" means the transfer or sale of mortgage servicing rights.

(b) "Transfer of servicing rights" includes a transfer of mortgage servicing rights from a master servicer to a subservicer pursuant to an agreement, if one of the parties is a licensed mortgage servicer.

(c) "Transfer of servicing rights" does not include a transfer of mortgage servicing rights that occurs before the first payment is due under the applicable security instrument.

(35) "Transferee servicer" means a licensed mortgage servicer that obtains the right to service a loan under either a subservicing agreement or an agreement for the sale of mortgage servicing rights.

(36) "Transferor servicer" means a licensed mortgage servicer that transfers the right to service a loan under either a subservicing agreement or an agreement for the sale of mortgage servicing rights.

[(27)**]** *(37)* (text unchanged)

.24 Notice of Mortgage Servicing Transfers.

A. General Information Regarding Transfers of Servicing Rights.

(1) For each transfer of servicing rights involving 5,000 or more loans, a transferee servicer shall provide the Commissioner with the following information at least 60 days before the transfer date, regardless of whether the transfer of servicing rights includes Maryland loans:

(a) Whether the transfer agreement is a subservicing agreement or an agreement for the sale of mortgage servicing rights;

(b) The names of all parties to the agreement;

(c) The total number of loans that will be transferred;

(d) The total unpaid principal balance for the loans that will be transferred;

(e) The total number of additional staff that has been or will be hired in order to service the transferred loans; and

(f) Whether the pool of transferred loans includes Maryland loans.

(2) Waiver of 60 Day Requirement.

(a) A transferee servicer may submit a written request to the Commissioner for a waiver from the 60 day requirement in §A(1) of this regulation.

(b) After receipt of a written request, the Commissioner may grant a waiver from the 60 day requirement in §A(1) of this regulation if extenuating circumstances exist, such as where a court or regulator required the transfer.

B. Information Regarding Maryland Loans.

(1) For each transfer of servicing rights subject to §A of this regulation that includes one or more Maryland loans, a transferee servicer shall provide the following information, accurate as of the date of submission to the Commissioner, at least 60 days before the transfer date:

(a) The total number of Maryland loans in the pool of transferred loans;

(b) A breakdown of the Maryland loans by investor type and FICO score;

(c) The number of Maryland loans that are delinquent, broken out by 30+, 90+, and 360+ days delinquent;

(d) The number of Maryland loans with a permanent loan modification;

(e) The number of Maryland loans for which the borrower has completed a trial loan modification and the transferor servicer has not supplied an executed copy of a permanent loan modification to the borrower;

(f) The number of Maryland loans with a loan modification that is in a trial period;

(g) The number of Maryland loans where the borrower has submitted a complete loss mitigation application and the transferor servicer has not made a decision regarding eligibility for a loss mitigation option;

(h) The number of Maryland loans that have incomplete loss mitigation applications; and

(i) The number of Maryland loans that include an escrow for taxes, insurance, ground rent, or other charges or levies.

(2) Waiver of 60 Day Requirement.

(a) A transferee servicer may submit a written request to the Commissioner for a waiver from the 60 day requirement in §B(1) of this regulation.

(b) After receipt of a written request, the Commissioner may grant a waiver from the 60 day requirement in §B(1) of this regulation if extenuating circumstances exist, such as where a court or regulator required the transfer.

C. For a transfer of servicing rights subject to §B of this regulation, a transferee servicer shall designate an officer, director, or member of senior management as the contact person authorized to discuss, negotiate, and make decisions for the resolution of complaints related to the servicing of Maryland loans that are in the pool of transferred loans.

D. Subsequent to receipt of the information required by §§B and C of this regulation, the Commissioner may request, and a transferee servicer shall provide, additional information before the transfer date, including, but not limited to:

(1) The name and loan number of a Maryland borrower whose loan is included in one or more of §B(1)(a)—(i) of this regulation; and

(2) An informational plan describing how the transferee servicer will manage risks related to the transfer.

E. Calendar-Year Information Regarding Mortgage Servicing Transfers.

(1) If, at the conclusion of a calendar year, a transferee servicer has acquired mortgage servicing rights, including subservicing rights, for 5,000 or more loans, a transferee servicer shall provide the information required by §§B and C of this regulation to reflect all transfers of servicing rights during the preceding calendar year, even if no single transfer of servicing rights was for 5,000 or more loans.

(2) Subsequent to receipt of the information required by §E(1) of this regulation, the Commissioner may request, and a transferee servicer shall provide, additional information, including, but not limited to, the name and loan number of a Maryland borrower whose loan is included in one or more of §B(1)(a)—(i) of this regulation.

F. The Commissioner may allow the submission of information and documents required under this regulation by an electronic method, including the NMLSR.

.25 Obligations Related to Mortgage Servicing Transfers.

A. Policies and Procedures.

(1) If a licensee is involved in a transfer of mortgage servicing rights as either a transferor or a transferee servicer, the licensee shall have policies and procedures in place to ensure compliance with applicable state and federal law regarding mortgage servicing, including, but not limited to, evaluation of borrowers for loss mitigation options.

(2) Examples of appropriate policies and procedures include:

(a) Requiring counterparties to provide all necessary documents and information, including all information needed to validate the debt and process payments, before the transfer date;

(b) Flagging all loans with pending offers of loss mitigation options or approved loss mitigation options;

(c) Ensuring that discussions with borrowers and any loss mitigation requests, applications, or documentation are provided to the transferee servicer;

(d) Testing transferor servicer and transferee servicer systems of record to ensure compatibility of transferred data;

(e) Identifying and promptly addressing data errors, missing information or documents, and other loan level issues;

(f) Creating a customer service plan for responding to inquiries from borrowers and for identifying whether a loan is subject to a pending loss mitigation application, offer of a loss mitigation option, or approved loss mitigation agreement;

(g) Creating a customer service plan for responding to and processing loss mitigation requests or inquiries from successors in interest of borrowers; and

(h) Remediating actual harm to borrowers that results from a transfer of servicing rights.

B. Obligations of Transferor Servicers.

(1) On or before the transfer date, a transferor servicer shall take all of the following actions:

(a) Provide all necessary loan level documents and information, including a complete history of loss mitigation activity, to the transferee servicer;

(b) Provide an itemization of all payments applied to the account, including any fees incurred by the borrower;

(c) Flag for the transferee servicer all loans with any of the following:

(i) A pending loss mitigation application;

(ii) An approved loss mitigation option;

(iii) A pending written complaint; or

(iv) A pending notice of error.

(d) Provide descriptions to the transferee servicer of loss mitigation options that are unique to the transferor servicer, including the criteria for determining eligibility;

(e) Describe specific regulatory requirements that are applicable to some or all of the transferred loans; and

(f) Describe specific requirements related to the terms of a settlement agreement that are applicable to some or all of the transferred loans.

(2) A transferor servicer shall forward all borrower payments received after the transfer date to the transferee servicer.

(3) Subject to Financial Institutions Article, §11-518, Annotated Code of Maryland, if a transferor servicer's failure to promptly comply with §B(1)—(2) of this regulation causes demonstrable financial loss to the borrower or harm to the borrower's credit score, the transferor servicer shall promptly take affirmative action to correct the violation including, but not limited to:

(a) Providing restitution of money or property to the affected borrower; and

(b) Taking steps to repair the borrower's credit score.

C. Obligations of Transferee Servicers.

(1) On or after the transfer date, a transferee servicer shall comply with all of the following requirements:

(a) Accept and continue processing pending loss mitigation applications within the timeframes that were applicable to the transferor servicer under relevant state and federal law;

(b) Honor trial and permanent loan modification agreements entered into by the transferor servicer;

(c) Provide general information about the transfer process to borrowers, including notice of a borrower's complaint resolution rights under applicable state and federal law;

(d) Confirm the amount and status of scheduled payments, including any fees incurred before the transfer date, with information and documents provided by the transferor servicer from its system of record; and

(e) Respond, within the timeframes established by applicable state and federal law, to any pending written complaint or pending notice of error sent to the transferor servicer.

(2) A transferee servicer may not take any of the following actions on or after the transfer date:

(a) Attempt to obtain from the borrower any missing information or documents that were previously submitted by the borrower to the transferor servicer, without first contacting the transferor servicer to attempt to obtain the missing information or documents; or

(b) Engage in any of the following activities before complying with §C(1)(d)—(e) of this regulation:

(i) Charge a late fee or any other fee in connection with the servicing of the loan;

(ii) Begin or continue collection activities; or

(iii) Provide information about delinquency to a credit reporting agency.

(3) Subject to Financial Institutions Article, §11-518, Annotated Code of Maryland, if a transferee servicer's failure to comply with §C(1)—(2) of this regulation causes demonstrable financial loss to the borrower or harm to the borrower's credit score, the transferor servicer shall promptly take affirmative action to correct the violation including, but not limited to:

(a) Providing restitution of money or property to the affected borrower; and

(b) Taking steps to repair the borrower's credit score.

GORDON COOLEY
Acting Commissioner of Financial Regulation

Subtitle 12 DIVISION OF LABOR AND INDUSTRY

09.12.81 Elevator, Escalator, and Chairlift Safety

Authority: Public Safety Article, §§12-805, 12-806, and 12-809, Annotated Code of Maryland

Notice of Proposed Action

[15-078-P**]**

The Commissioner of Labor and Industry proposes to amend Regulations **.01-1** and **.04-1** under **COMAR 09.12.81 Elevator, Escalator, and Chairlift Safety**.

Statement of Purpose

The purpose of this action is to amend the elevator, escalator, and chairlift safety regulations to provide that a cliffside elevator is a private residence elevator as provided for in the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1. In addition, the proposed regulation updates the insurance requirements for third-party qualified inspectors to reflect industry practice.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Ch. 155, Acts of 2014, requires an owner of a cliffside elevator on the property of a privately owned single family residential dwelling to have the unit inspected by a third-party qualified elevator inspector every 2 years. The cost of an inspection is approximately $1,000. Owners will have to hire third-party qualified elevator inspectors to perform the inspection. In addition, third-party qualified elevator inspectors performing inspections in Maryland are required to have insurance. The insurance requirements have not been updated in many years and do not reflect the industry practice in type or amount of coverage. This regulation specifies the type of insurance and the amount required for third-party qualified elevator inspectors.

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:	(-)/(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	$1,000 per inspection

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

D. Third-party qualified elevator inspectors will have increased revenue as a result of their performing inspections on cliffside elevators. As to the amended insurance requirements, the specification of the type of insurance and the amount of insurance reflect the industry practice so only third-party qualified elevator inspectors who do not follow industry practice will be impacted.

F. Owners of cliffside elevators will have to assume the cost of an inspection of their unit in the amount of approximately $1,000 every 2 years.

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 Melissa Myer, Special Projects Coordinator, Department of Labor, Licensing, and Regulation, 1100 North Eutaw Street, Room 601, Baltimore, MD 21201, or call 410-767-2182, or email to melissa.myer1@maryland.gov, or fax to 410-767-2986. Comments will be accepted through February 27, 2015. A public hearing has not been scheduled.

.01-1 Definitions.

A. (text unchanged)

B. Terms Defined.

(*1*) *"Cliffside elevator" means a private residence incline elevator as provided for in the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, Part 5.*

[(1)**]** *(2)* — **[**(14)**]** *(15)* (text unchanged)

.04-1 Third-Party Qualified Elevator Inspectors.

A. (text unchanged)

B. Insurance Requirements.

(1) **[**A**]** *Except as provided in §B(6) of this regulation, a* third-party qualified elevator inspector authorized to conduct periodic no-load elevator inspections *in Maryland* shall **[**provide the Commissioner with a certified copy of an insurance policy covering liability related to the third-party qualified elevator inspector performing inspections**]** *have professional liability insurance covering liability related to inspections performed* on elevator units in Maryland.

(2) The *professional liability* insurance policy shall be issued by an insurance company authorized to do business in Maryland.

(3) The *professional liability* insurance policy shall be in the amount of at least **[**$500,000**]** *$1,000,000* for **[**injury or death for any number of individuals in**]** any single occurrence, and **[**$100,000 for property damage in any single occurrence**]** *a general aggregate amount of at least $2,000,000*.

(4) **[**The insurance policy shall identify the Commissioner as the certificate holder**]** *The third-party qualified elevator inspector shall provide the Commissioner with a certified copy of the professional liability insurance policy*.

(5) — (6) (text unchanged)

C. — D. (text unchanged)

J. RONALD DEJULIIS
Commissioner of Labor and Industry

Subtitle 19 COMMISSION OF REAL ESTATE APPRAISERS, APPRAISAL MANAGEMENT COMPANIES, AND HOME INSPECTORS — REAL ESTATE APPRAISERS

Notice of Proposed Action
[15-066-P]

The Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors proposes to:

(1) Repeal existing Regulations **.01** and **.02** and adopt new Regulations **.01** and **.02** under **COMAR 09.19.04 Supervising Appraisers and Appraiser Trainees**; and

(2) Repeal existing Regulation **.02** under **COMAR 09.19.12 General Regulations**.

This action was considered at a public meeting of the Commission held on December 9, 2014, notice of which was given in 41:23 Md. R 1416 (November 14, 2014), pursuant to General Provisions Article, §3-302, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to repeal an obsolete chapter pertaining to provisional licenses and substitute provisions pertaining to supervising appraisers and real estate appraiser trainees. The new regulations require a supervising appraiser and an appraiser trainee to notify the Commission of the commencement or termination of a supervisory relationship. They also requires an appraiser trainee to identify his or her assistance on an appraisal report to receive work experience credit required for qualification to sit for a real estate appraiser license or certification examination. The repeal of Regulation .02 under COMAR 09.19.12 General Regulations and adoption as part of Regulation .01 in COMAR 09.19.04 is to include those requirements in the new chapter that specifically applies to the responsibilities of a supervising appraiser and an appraiser trainee.

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 Patricia Schott, Executive Director, Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors, 500 N. Calvert Street #302, Baltimore, MD 21202, or call 410-230-6165, or email to patricia.schott@maryland.gov, or fax to 410-333-6314. Comments will be accepted through March 16, 2015. A public hearing has not been scheduled.

09.19.04 [Provisional Licenses] *Supervising Appraisers and Appraiser Trainees*

Authority: Business Occupations and Professions Article, §§16-101(r) and (s), 16-216, 16-220 and 16-5A-03, Annotated Code of Maryland

.01 Supervising Appraisers.

A. To be eligible to serve as a supervising appraiser, an individual:

(1) Shall be in good standing;

(2) May not have been subject to any disciplinary action within the immediately preceding 3 years; and

(3) Shall have held a certified residential or certified general real estate appraisal license for at least 3 years.

B. A supervising appraiser may supervise a maximum of three appraiser trainees at one time.

C. A supervising appraiser must complete a Commission-approved course that, at a minimum, complies with the specifications for course content established by the AQB and is oriented toward the requirements, expectations and responsibilities of supervisory appraisers.

D. A supervising appraiser shall notify the Commission on a form prescribed by the Commission of the commencement or termination of a supervisory relationship with a real estate appraiser trainee no later than 10 days after the commencement or termination.

E. A supervising appraiser shall approve, sign and accept responsibility for each appraisal report prepared by a trainee under the supervision of the supervising appraiser.

.02 Appraiser Trainees.

A. A real estate appraiser trainee shall notify the Commission on form prescribed by the Commission of the commencement or termination of a supervisory appraiser relationship with a supervising appraiser no later than 10 days after the commencement or termination.

B. To obtain experience credit for appraisals, the real estate appraiser trainee must sign the appraisal report, sign the certification of the appraisal report, or have their name and significant appraisal assistance conspicuously identified in the appraisal report.

GEORGE FAIR
Chairman
Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 01 PROCEDURES

10.01.03 Procedures for Hearings Before the Secretary of Health and Mental Hygiene

Authority: Authority: Health-General Article, § 2-104(b); State Government Article, **[**§10-204**]** *§§9-1607.2(b) and 10-206(b)*; Annotated Code of Maryland

Notice of Proposed Action

[15-033-P**]**

The Secretary of Health and Mental Hygiene proposes to repeal existing Regulations **.01—.38** and adopt new Regulations **.01—.20** under **COMAR 10.01.03 Procedures for Hearings Before the Secretary of Health and Mental Hygiene**.

Statement of Purpose

The purpose of this action is to update the Department's procedural regulations.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Scope.

A. This chapter applies to hearings that the Secretary is required to conduct by statute or regulation except for those hearings for which specific procedural regulations have been promulgated. This chapter does not apply to conferences, investigations, or proceedings at which the general public has been assembled to provide comments and opinions regarding a permit or license proposed to be issued by the Department, or to hearings before the Department's Boards and Commissions, which are authorized by law to conduct their own hearings.

B. These procedures are intended to supplement the procedures required by law. They are not substantive and are not to be construed as creating rights not set out by law. In the event of conflict, statutory provisions take precedence over this chapter.

C. Construction.

(1) In hearings conducted by an administrative law judge of the Office of Administrative Hearings, this chapter shall be construed, whenever possible, as supplementing COMAR 28.02.01.

(2) In a conflict between this chapter and COMAR 28.02.01, this chapter applies.

.02 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

(1) Civil Penalty.

(a) "Civil penalty" means a monetary penalty authorized by statute or regulation and imposed for a violation of a statute, regulation, permit, or license.

(b) "Civil penalty" does not include statutorily authorized reimbursement of State or federal expenditures.

(2) "Department" means the Maryland Department of Health and Mental Hygiene, or any of its constituent units.

(3) "Hearing" means a contested case hearing as defined by the Administrative Procedure Act, State Government Article, §10-201 et seq., Annotated Code of Maryland.

(4) "Administrative Law Judge (ALJ)" means an administrative law judge of the Office of Administrative Hearings as defined in COMAR 28.02.01.02B(1).

(5) "Office of Administrative Hearings (OAH)" means the independent unit in the Executive Branch of State government authorized to conduct hearings in contested cases, pursuant to the Administrative Procedures Act and this chapter.

(6) "Party" means any person or agency named or admitted as a party, including the Department.

(7) "Person" means any individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any firm, partnership, association, corporation, or other entity including any public or municipal corporation and any agency, bureau, department, or instrumentality of federal, State, or local government.

(8) "Secretary" means the Secretary of Health and Mental Hygiene, a designee of the Secretary, or that official empowered by statute to render the final agency decision in a contested case.

.03 Sanctions.

This chapter shall be construed to secure the just and speedy determination of each action. If a party fails to follow this chapter, the ALJ or the Secretary may enter such orders in regard to the failure as are just, including limiting the issues to be heard and dismissing the request for hearing or entering an order on the merits against the Department.

.04 The Record.

The record in each case shall include:

A. The items listed in COMAR 28.02.01.22B; and

B. In the case of a proposed decision:

(1) Any exceptions filed by any party;

(2) The response to those exceptions;

(3) The final decision; and

(4) Any correspondence relating to the proposed decision, the exceptions process, and the final decision.

.05 Notice of the Right to a Hearing.

The Department shall provide the notices of agency action and of the right to a hearing required by law. The notices shall contain the information required by State Government Article, §§10-207 and 10-208, Annotated Code of Maryland.

.06 Request for Hearing.

A. A person, either directly or through a representative, may request a hearing by mailing or delivering a written request to the individual and unit of the Department specified in the notice

B. The request shall state that the person desires a hearing in order to review a matter that is the proper subject of a hearing as provided under Department regulations or other applicable law. In

addition, the person requesting the hearing shall enclose a copy of the notice of agency action being appealed.

C. The request shall include a brief statement of the basis for the request, and other information required by law.

D. The Department or constituent unit may require a statement to be made on a form if the person is notified of this requirement and is provided a copy of the form in the notice of the right to a hearing.

E. A request for a hearing shall be deemed filed when received in the unit of the Department specified in the notice required by Regulation .05 of this chapter.

.07 Delegation.

A. Contested cases that are authorized by statute to be conducted by the Secretary or the Department shall be conducted by:

(1) OAH in accordance with a letter of delegation from the Secretary; or

(2) Such other person as authorized by law.

B. In all cases delegated to OAH, the delegation is limited to the issues raised by the notice of agency action attached to the transmittal from the agency to OAH.

.08 Service.

When the Department is required to make service, service may be made in any manner reasonably calculated to provide the required notice to the intended recipient. Service upon a party who has applied for a permit, license, or certificate or to whom a permit or license or certificate has been issued by the Department may be made by delivering a copy to the last known address in the Department's records.

.09 Certificates of Service.

Whenever a party is required by this chapter to serve a copy of a pleading or memorandum upon another party, a certificate shall be appended to the pleading or memorandum stating:

A. To whom the copy was sent;

B. The address to which the copy was sent;

C. The name of the person who sent the copy; and

D. The date the copy was sent.

.10 Continuances.

A. On motion or on the Secretary's own initiative, an exceptions hearing may be continued by the Secretary as justice may require.

B. Requests for postponement shall be confirmed in writing, and the written request shall:

(1) Set forth the reason for the request; and

(2) Unless the parties agree to schedule beyond the 45-day period, list at least three dates within the 45-day period following the day originally scheduled on which the party and counsel would be available for a hearing.

(3) Whenever feasible, a postponed hearing shall be rescheduled within the 45-day period.

.11 Time Periods.

For good cause, either the Secretary or the ALJ may shorten, extend, or waive any time periods provided in this chapter.

.12 Appointment of Interpreter.

A. If a party cannot readily hear, speak, or understand the spoken English language, the Secretary may appoint a qualified interpreter to provide assistance during an exceptions hearing.

B. Costs of an interpreter may be charged to the party on whose behalf the interpreter is obtained.

.13 Appearance of Parties at Hearings; Representation.

A. A party to a proceeding may be represented by an attorney, or, if allowed by law, appear in person or through another representative.

B. Except as otherwise provided by law, a person other than an individual shall be represented by an attorney authorized to practice law in the State.

C. Unless the appearance is subsequently withdrawn in writing, any notice, decision, or other matter required to be sent to a party may be sent to the attorney at the attorney's address.

D. When any party is represented by counsel, all submission of evidence, examination, and cross-examination of witnesses, and all objections and motions on its behalf shall be made solely by counsel.

.14 Discovery.

A. Discovery on Request. By written request filed with OAH and served on other parties at least twenty days before the scheduled hearing, a party may require another party to produce, within 15 calendar days:

(1) A list of witnesses to be called;

(2) Copies of documents intended to be produced at the hearing; and

(3) The name and curriculum vitae of any expert who will testify at the hearing.

B. Parties are not entitled to discovery of items other than as listed in §A of this regulation.

.15 Open Hearings.

A. Unless otherwise provided by law, documents, notices, and records in the possession of the Secretary as a result of these contested case proceedings may be inspected by any person as provided in State Government Article, §10-611 et seq., Annotated Code of Maryland.

B. Cameras and other photographic equipment may be permitted in the exceptions hearing room at the discretion of the Secretary.

C. The Secretary may cause the removal of any person whose conduct impedes the orderly progress of an exceptions hearing, or may recess the hearing until such time as it may proceed in an orderly fashion.

D. The Secretary may exclude from an exceptions hearing a person or persons who have given the Secretary no advance notice of an intention to attend, if the size of the hearing room is too small to accommodate the presence of that person or persons.

E. An exceptions hearing is open to public observation, except for the parts that the Secretary states are to be closed pursuant to a provision of law expressly authorizing that closure. To the extent that a hearing is conducted by telephone, television, or other electronic means, the availability of public observation is satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recordings, except for such portions of the hearing as are closed pursuant to this section.

.16 Burden of Going Forward and Persuasion.

A. When, by specific statute or regulation, the burden of going forward or the burden of persuasion rests upon a certain party, this regulation does not shift those burdens.

B. Except as provided in §A of this regulation:

(1) A party requesting a hearing following notice of the Department's intent to deny or refuse to renew a permit or license bears the burden of going forward to establish a prima facie case of entitlement to the permit or license and the burden of persuasion that the permit or license should be issued;

(2) A party contesting the Department's tentative decision to issue or renew a permit or license bears the burden of going forward to establish a prima facie case that grounds exist for denying the license or permit and the burden of persuasion that the license or permit should be denied;

(3) In a proceeding following notice by the Department of an intent to revoke or suspend a permit or license, the Department bears the burden of going forward to establish a prima facie case as to the

existence of grounds for revocation or suspension and the burden of persuasion that the license or permit should be revoked or suspended;

(4) In a proceeding to impose a civil penalty or to issue an order, the Department bears the burden of going forward to establish a prima facie case as to existence of the grounds for imposition of a civil penalty or issuance of an order and the burden of persuasion that the civil penalty should be imposed or order issued; and

(5) In a proceeding in which a party seeks payment from the Department or contests the recoupment by the Department of an alleged overpayment, the party seeking payment or contesting recoupment has burden of going forward and the burden of persuasion.

C. Except as provided by §§A and B of this regulation, the party asserting the affirmative of an issue before the ALJ has the burden of going forward and the burden of persuasion.

D. A party with the burden of persuasion shall be required to present its case first, unless otherwise agreed by the parties.

.17 Final Decision.

A. The Secretary is not bound by the ALJ's proposed decision even in those cases where no exceptions are filed.

B. If no exceptions have been filed and, after reviewing an ALJ's proposed decision, the Secretary concludes that the Secretary is unable to approve that decision as written, the Secretary shall notify all parties and invite argument from the affected parties on the issues the Secretary is reconsidering.

.18 Exceptions; Requests for Oral Argument.

A. Exceptions to an ALJ's proposed decision shall be filed with the Secretary within 21 days after the ALJ's proposed decision is received. Receipt is presumed to occur 3 days after mailing.

B. Exceptions shall be in writing and contain a concise statement as to each portion of the ALJ's determination to which exception is taken and the asserted basis for taking the exception.

C. Any party may file a written response to exceptions taken to the ALJ's proposed decision within 14 days of the filing of exceptions.

D. A copy of the exceptions and any response shall be served on all parties to the proceedings.

E. The Secretary shall hear oral argument on the exceptions and may limit the time for oral argument in the discretion of the Secretary.

F. The Secretary shall consider the exceptions filed before rendering the final agency decision.

G. A party that intends to refer to any evidence produced at the hearing before the ALJ shall notify the agency of the specific evidence in its request for exceptions. That party is responsible for filing with the Secretary a copy of the transcript of the hearing, or relevant portions of it, at that party's expense, at least 5 days before the scheduled exception hearing.

H. If all parties are in agreement, a stipulation of facts may be submitted instead of a transcript.

I. Additional evidence may not be introduced, nor may testimony of witnesses be heard by the Secretary. All exception hearings or reviews shall be conducted on the basis of the record compiled before the ALJ.

J. Within 90 days after the conclusion of the exceptions hearing, the Secretary shall adopt a final decision and, if appropriate, an order. Copies of the final decision and findings of fact and conclusions of law shall be delivered or mailed promptly to all parties or to their attorneys.

.19 Stays.

A. Except as prohibited by law, a party that is adversely affected by a final order may request a stay of the order from the Secretary pending judicial review.

B. A request for a stay shall be filed with the Secretary within 10 days of the date of the final order from which the stay is sought.

C. A request shall include a statement of the reasons a stay is sought.

D. A request shall include a statement of the grounds for the appeal to the Board of Review or the petition for judicial appeal.

E. The Secretary may grant a stay upon such conditions, including security or bond, as the Secretary determines to be proper.

F. A request for stay may not operate as a stay, nor extend the time for appeal.

G. The Secretary may hold a hearing on a request for a stay, or rule upon the request without a hearing.

. 20 Judicial Review.

Unless otherwise agreed between the parties, a party may not file a petition for the judicial review of a decision of the Secretary unless the party has filed exceptions with the Secretary to the proposed decision and the Secretary has rendered a final decision. This provision does not apply when the Secretary has delegated final decision-making authority to OAH.

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

Subtitle 06 DISEASES

10.06.02 Communicable Diseases—Rabies

Authority: Health-General Article, §§18-102, 18-312—18-320, and 18-604, Annotated Code of Maryland

Notice of Proposed Action

[15-031-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01—.04**, **.06**, **.07**, **.09—.11**, and **.13** under **COMAR 10.06.02 Communicable Diseases—Rabies**.

Statement of Purpose

The purpose of this action is to clarify terms and align regulations with current scientific guidance.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Scope.

This chapter provides for cooperative rabies control efforts by the Department, local health officers, physicians, veterinarians, and other Maryland government agencies as guided by policy statements such as the Compendium of Animal Rabies *Prevention and* Control, issued

annually by the National Association of State Public Health Veterinarians.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(4) "Apparently healthy" means an:

(a) (text unchanged)

(b) Investigation by the local health officer or the health officer's designee shows that:

(i) The animal has not had a change in health or behavior in the past 30 *calendar* days, including but not limited to lethargy, lameness, weakness, slowness of movement or gait, **[**paresis,**]** paralysis, or loss of appetite, or

(ii) (text unchanged)

(5) (text unchanged)

(6) "Bite contact" means penetration of the skin by the teeth of an animal, *regardless of whether blood is visible*.

[(7) "Biting animal" means an animal that has bitten or has exposed through a non-bite contact a human or another animal.**]**

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

[(9)**]** *(8)* "Custodian" means a caretaker or keeper of, *or any person harboring or providing care or sustenance for*, an animal, or the local animal control authority who has responsibility for an unclaimed animal.

[(10)**]** (9)—**[**(15)**]** *(14)* (text unchanged)

[(16)**]** *(15)* "Livestock" means domestic farm animals, including but not limited to cattle, **[**equine,**]** *horses and other equines*, swine, sheep, and goats.

[(17)**]** *(16)*—**[**(21)**]** *(20)* (text unchanged)

[(22)**]** *(21)* "Provoked bite" means a bite that resulted from human activity, such as an individual attempting to play with, pet, feed, handle, hold, *harm* or redirect an animal's actions.

[(23)**]** *(22)*—**[**(25)**]** *(24)* (text unchanged)

[(26)**]** *(25)* "Risk assessment" means the evaluation of the circumstances surrounding a bite or non-bite contact to determine the likelihood that an individual has **[**come into contact with an animal that was exposed to rabies**]** *been exposed to material potentially infectious with rabies*.

[(27)**]** *(26)*—**[**(28)**]** *(27)* (text unchanged)

[(29)**]** *(28)* "Strict isolation" means that:

(a) An animal is confined in **[**a double-door, escape-proof enclosure**]** *an escape-proof enclosure that precludes direct contact with people and other animals;*

(b) (text unchanged)

(c) Human contact with the animal is restricted to one adult caring for the animal or not allowed at all by the local health officer or Public Health Veterinarian; *and*

[(d) The enclosure is constructed in a manner to ensure that the confined animal is unable to come in contact with another animal; and**]**

[(e)**]** *(d)* The owner or custodian of the animal has signed an agreement with the local health department or animal control **[**office**]** *authority* that the owner or custodian has met and agrees to meet the requirements specified in **[**§B(29)(a)—(d)**]** *§B(28)(a)—(c)* of this regulation.

[(30)**]** *(29)*—**[**(31)**]** *(30)* (text unchanged)

.03 Human Rabies.

A.—B. (text unchanged)

C. Immunization; Preexposure.

(1) (text unchanged)

(2) **[**Based on the ability-to-pay schedule developed by the Department and circulated to all local health departments, the**]** *The* local health officer may provide rabies preexposure immunization to other individuals who are determined by the Public Health Veterinarian to have a high risk of exposure to rabies infection.

(3) The local health officer shall:

(a) Report to the Public Health Veterinarian **[**monthly**]** *at least every 3 months*, the number of **[**postexposure**]** *preexposure* immunizations administered; and

(b) Maintain records of the name, address, age, sex, county of residence, occupation, and the results of any blood tests administered in conjunction with rabies **[**postexposure**]** *preexposure* immunization for each individual immunized.

(4)—(5) (text unchanged)

D. Treatment; Postexposure.

(1) (text unchanged)

(2) A local health officer shall report **[**on a monthly basis**]** to the Public Health Veterinarian:

(a) **[**The**]** *At least every 3 months, the* number of postexposure treatments administered;

(b) **[**For**]** *At the completion of treatment, for* each individual administered treatment, the individual's:

(i) Name**[**,**]***;*

(ii) Address**[**,**]***;*

(iii) Age**[**,**]***;*

(iv) Sex**[**,**]***;*

(v) County of residence**[**,**]**; and

(vi) Occupation; and

(c) (text unchanged)

(3)—(4) (text unchanged)

(5) The local health officer of the county **[**in which the individual receiving treatment resides**]** *which provides treatment* is responsible for making a reasonable effort to obtain monies to pay for treatment through available resources.

[E. Rabies Biological Products.

(1) The Public Health Veterinarian, in cooperation with the local health officer, shall provide human rabies biological products, that is, human rabies vaccine and human rabies immune globulin, for prompt availability throughout the State on a 24-hour basis.

(2) The local health officer may obtain rabies biological products.**]**

.04 Animal Rabies.

[A. Reporting. An individual who knows of an animal that has rabies or is suspected of having rabies or of an animal that has had a bite from or non-bite contact with an animal known to have or suspected of having rabies shall report the facts immediately by telephone or in person to the local police, sheriff's department, or local animal control authority.**]**

A. Reporting. An individual shall report immediately by telephone or in person to the local police, sheriff's department, or local animal control authority if they know of an animal that:

(1) Has rabies;

(2) Is suspected of having rabies; or

(3) Has had a bite from or non-bite contact with an animal known to have or suspected of having rabies.

B. Disposition of a Suspected Rabid Animal-----No Bite **[**and No**]** *or* Non-Bite Human Contact.

(1) Dogs, Cats, and Ferrets.

(a)—(d) (text unchanged)

(e) Rabies testing is not required if there is no human contact *or contact with another animal*.

(2) Livestock.

(a)—(c) (text unchanged)

(d) Rabies testing is not required if there is no human contact *or contact with another animal*.

(3) Wild Animals.

(a) The *local health officer or* Public Health Veterinarian may order a wild animal that is suspected of having rabies to be

humanely killed if there is no evidence that the animal has an individual owner.

(b) If there is evidence of ownership, the Public Health Veterinarian, local health officer, or local animal control authority may order the humane killing of the animal if the owner or custodian does not appear within 24 hours to claim the animal or if there is imminent threat to human health or safety. For unclaimed stray animals, the 24-hour period is included within the period required under Regulation **[**.02B(30)**]** *.02B(29)* of this chapter.

(c)—(d) (text unchanged)

C. (text unchanged)

D. Disposition of an Animal Exposed to a Rabid Animal or to an Animal Suspected of Having Rabies.

(1) If the owner or custodian of a domestic animal that has been exposed to **[**an animal having rabies, or exposed to an animal suspected of having rabies**]** *a rabid animal, or to an animal suspected of having rabies,* is able to provide a current rabies vaccination certificate for the animal, the **[**Public Health Veterinarian or local health officer shall order the animal re-vaccinated and kept under quarantine for 45 days or for such time as specified by the Public Health Veterinarian.**]** *owner or custodian shall:*

(a) Have the animal re-vaccinated against rabies immediately; and

(b) Hold the animal in quarantine for 45 calendar days or for such time as specified by the Public Health Veterinarian.

(2) If the owner or custodian of a domestic animal that has been exposed to a rabid animal, or to an animal suspected of having rabies, is unable to provide a current rabies vaccination certificate but has an expired rabies vaccination certificate, the local health officer or animal control authority shall consult with the Public Health Veterinarian to determine the disposition of the animal considering the:

(a) Animal's:

(i) Age;

(ii) Health status; and

(iii) Number of prior vaccinations;

(b) Severity of the exposure; and

(c) Time elapsed since last rabies vaccination.

[(2)**]** *(3)* If the owner or custodian of a domestic animal that has been exposed to a rabid animal, or to an animal suspected of having rabies, is unable to provide **[**a current**]** *any* rabies vaccination certificate, the owner or custodian shall:

(a) (text unchanged)

(b) **[**Hold**]** *Have the animal vaccinated against rabies immediately, and hold* the animal in strict isolation for a minimum of 6 months in a facility and a manner approved by the Public Health Veterinarian **[**and, if the animal shows no evidence of rabies, vaccinate it with rabies vaccine 1 month before release**]**.

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

[(5)**]** *(6)* The local health officer or the Public Health Veterinarian may order the humane killing for rabies testing of an animal exposed to a rabid animal or to an animal suspected of having rabies if:

(a) The isolation agreement defined in Regulation **[**.02B(29)**]** *.02B(28)*of this chapter is violated;

(b) (text unchanged)

(c) A **[**human**]** bite or non-bite contact *to a human* occurs;

(d) A bite or non-bite contact to another animal occurs;

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

.06 Risk Assessment Following Bite or Non-Bite Contact to Humans.

Following the report of a bite or non-bite contact to a human, the local health officer shall conduct a risk assessment that includes a determination of:

A.—D. (text unchanged)

E. Whether the bite *or non-bite contact* was **[**a**]** provoked **[**bite**]** and what human activity may have provoked the bite *or non-bite*; and

F. (text unchanged)

.07 Disposition of Animals Following Bite or Non-Bite Contact to Humans.

A. (text unchanged)

B. Quarantine Period.

(1)—(2) (text unchanged)

(3) Wild Animals.

(a) Except in situations in which the local health officer or the Public Health Veterinarian determines that an animal poses an imminent threat to public health or safety and must be killed immediately, the Public Health Veterinarian may order a wild animal involved in bite or non-bite contact with an individual to be placed in quarantine for at least 24 hours **[**and, if**]**.

(b) If the animal is not claimed by an owner or custodian within that **[**time, shall**]** *24-hour period, the Public Health Veterinarian may* order the animal to be humanely killed and its head submitted to the laboratory designated by the Department for rabies testing.

(c) For unclaimed stray animals, the 24-hour period is included within the period required under Regulation **[**.02B(30)**]** *.02B(29)* of this chapter.

(4) (text unchanged)

C. Conditions of Quarantine.

(1) (text unchanged)

(2) The owner or custodian of an animal under quarantine shall pay for the cost of the veterinary examination **[**or**]** *and* other associated **[**cost**]** *costs*.

(3) If a Maryland-licensed veterinarian determines that a quarantined animal **[**is inhumanely suffering with**]** *has* possible rabies manifestations, the veterinarian may *humanely* kill the animal **[**in a humane manner**]** and submit its head promptly *through the local health officer or local animal control authority* to the laboratory designated by the Department for testing for rabies.

D. (text unchanged)

E. Humane Killing of an Animal for Rabies Testing. The local health officer or the Public Health Veterinarian may order in writing the humane killing of an animal that has had bite or non-bite contact with a human for the purpose of rabies testing if:

(1)—(2) (text unchanged)

(3) The animal is a wild animal unclaimed for at least 24 hours by an owner or custodian, with, for unclaimed stray animals, the 24-hour period included within the period required under Regulation **[**.02B(30)**]** *.02B(29)* of this chapter; or

(4) (text unchanged)

F. Surrender of Animals. A person may not fail or refuse to surrender **[**an**]** *a dead or live* animal for quarantine, **[**or destruction**]** *humane killing, or rabies testing* as required in this chapter when demand is made by written order of the local health officer or the Public Health Veterinarian.

G. The police, sheriff, or animal control **[**center**]** *authority* staff shall enforce all written orders of the local health officer or Public Health Veterinarian issued pursuant to this regulation.

.09 Laboratory Testing.

A. **[**The following individuals**]** *A local health officer or local animal control authority* shall submit rabies specimens for laboratory testing **[**in the following order:

(1) The owner or custodian of an animal that has had bite or non-bite contact with an individual;

(2) The attending veterinarian;

(3) The bite victim;

(4) The local health officer; and

(5) The attending physician**]**.

B. The director of the rabies testing laboratory shall promptly forward a copy of the results of a rabies examination to *the*:

(1) **[**The local**]** *Local* health officer;

(2) The attending physician;**]** *Individual that originally submitted the specimen to the laboratory from the local animal control authority; and*

(3) **[**The**]** Public Health Veterinarian **[**; and

(4) Other medical, veterinary, or animal control authority personnel who have submitted the specimen, such as private practice veterinarians, veterinary hospitals, laboratories, and health care providers**]**.

C. The director of the rabies *testing* laboratory shall promptly report by telephone to the local health officer a positive rabies finding on a specimen from an animal that has been involved in bite or non-bite contact with an individual.

D. After receiving results of a positive finding of rabies, the local health officer shall notify the attending physician *or attending veterinarian* by telephone.

.10 Vaccination of Animals.

A. An owner or custodian of a dog, cat, or ferret **[**4 months old or older**]** shall have that animal adequately vaccinated against rabies *by the time the dog, cat, or ferret is 4 months old*.

B. Vaccination Documentation.

(1) **[**Before July 1 of each year,**]** *Except for a local animal control authority,* an owner or custodian of an animal **[**, except a local animal control authority,**]** required to be licensed or registered shall have the animal adequately vaccinated and shall obtain a valid rabies vaccination certificate on the form specified by the Department. The certificate shall be completed and signed by a Maryland-licensed veterinarian or, in the case of public antirabies clinics, the certificate may be issued under the authority of the Public Health Veterinarian, documenting that the animal has been adequately vaccinated against rabies for the period of time covered by the **[**license or registration**]** *rabies vaccination.*

(2)—(3) (text unchanged)

C. Unless the Public Health Veterinarian has authorized a delay in vaccination, a local animal *control* authority may not license or register a dog, cat, or ferret without verifying the rabies vaccination status as documented by a current rabies vaccination certificate.

D. Vaccination Certificates.

(1) (text unchanged)

(2) A veterinarian shall administer rabies vaccine to an animal in accordance with the specifications on the vaccine and recommendations for immunization procedures, such as the current **[**year's**]** Compendium of Animal Rabies *Prevention and* Control.

(3) The veterinarian administering rabies vaccine to an animal shall:

(a) Complete the NASPHV Form 51, or an equivalent form, containing the:

(i) Vaccine manufacturer**[**,**]** *and* lot or serial number**[**, and the vaccine expiration date,**]***;*

(ii) Date the vaccine was given**[**,**]***;*

(iii) Date the next vaccination is due by;

[(iii)**]** *(iv)* Signature of the veterinarian and the date the rabies certificate was signed**[**,**]***;*

[(iv)**]** *(v)* Veterinarian's name, address, telephone number, and veterinary license number legibly stamped, typed, or printed**[**,**]***;*

[(v)**]** *(vi)* Owner's name, address, and telephone number**[**,**]***;*

[(vi)**]** *(vii)* Rabies tag number**[**,**]***;* and

[(vii)**]** *(viii)* Animal's species, age, weight, predominant breed, and color; and

(4) When vaccine is administered at public antirabies clinics, the local clinic staff shall complete the NASPHV Form 51, or an equivalent form, as directed by the Public Health Veterinarian and provide a copy to the local health **[**department**]** *officer* and the animal owner.

[(5) A person administering rabies vaccine to animals shall send to the local health department information detailing vaccinations administered each month by way of:

(a) Copies of signed and completed certificates;

(b) A line list summary of all vaccinations; or

(c) An alternative method as determined by the health officer.

(6) The local health department shall maintain the copies or the line listing summary by tag number.**]**

[(7)**]** *(5)* (text unchanged)

[(8)**]** *(6)* An owner or custodian may use the vaccination certificate as proof of vaccination and shall provide it to **[**local**]** police, **[**State Police,**]** *the animal control authority,* or health officials upon request.

E. Vaccination Procedures.

(1) A licensed veterinarian may select a rabies vaccine of the veterinarian's choice and use procedures for administering it that are consistent with the recommendations of NASPHV, the United States Department of Agriculture, and the Compendium of Animal Rabies *Prevention and* Control.

(2)—(5) (text unchanged)

F. (text unchanged)

G. Antirabies Clinics.

(1) In conjunction with the *Department, each* local health department **[**, the Department**]** shall provide for low-cost, self-financing, antirabies clinics for animals in each county and Baltimore City.

(2)—(5) (text unchanged)

.11 Importation of Animals.

A.—B. (text unchanged)

C. The local animal control **[**agency**]** *authority* may accept the certificate specified in §A of this regulation as proof of vaccination for licensing or registration purposes for the period specified on the certificate or 12 months, whichever period is shorter.

D.—E. (text unchanged)

F. Research facilities and licensed dealers, as defined in 7 U.S.C. §2132 and 9 CFR 1.1 and 2.7, are exempt from **[**the provisions of D and E**]** *§§D and E* of this regulation when importing dogs, cats, and ferrets.

G.—H. (text unchanged)

I. The Public Health Veterinarian may waive the requirements of **[**A and B**]** *§§A and B* of this regulation if the importation of the animal poses no risk to the public health or safety.

.13 Disposition of Animals by Animal Shelters, Pounds, or Veterinarians.

A. (text unchanged)

B. Except as provided in §C of this regulation, if the animal has had bite or non-bite contact with an individual within the time periods specified in §A of this regulation, the animal shelter, pound, or veterinarian shall:

(1) If the animal is a dog, cat, ferret, or livestock, offer the owner or custodian, the option of:

(a) Quarantining the animal for 10 *calendar* days at the owner's or custodian's expense**[**,**]***;* or

(b) Humanely killing the animal and submitting the **[**brain**]** *head* for rabies testing; or

(2) (text unchanged)

C. (text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.02 Physicians' Services

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

Notice of Proposed Action

[15-032-P**]**

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.05** under **COMAR 10.09.02 Physicians' Services**.

Statement of Purpose

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

Comparison to Federal Standards

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

Estimate of Economic Impact

I. Summary of Economic Impact. The Department is proposing the removal of limitations on gender reassignment surgery. The additional coverage represents an overall cost to the Department.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	$120,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	$120,000
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. and D. There are an estimated 400 transgender individuals currently enrolled in the Maryland Medical Assistance (MA) Program. If approximately two and a half percent of this population request the procedure(s) and meet the prior authorization criteria for the surgery, this could result in 10 gender reassignments. At the estimated cost of $65,000 per surgery, this would be an additional cost of $650,000 over the next 5 years. Not all individuals will have the surgery in the first year it is covered. We estimate that two individuals will have the surgery in the remaining part of FY15 at a cost of $120,000 and 4 individuals will have the surgery in FY16 at a cost of $240,000.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.05 Limitations.

A. Services which are not covered are:

(1)—(19) (text unchanged)

[(20) Gender change or sex reassignment procedures;**]**

[(21)**]** *(20)*—**[**(22)**]** *(21)* (text unchanged)

B.—H. (text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.12 Disposable Medical Supplies and Durable Medical Equipment

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-129, Annotated Code of Maryland

Notice of Proposed Action

[15-040-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.03** under **COMAR 10.09.12 Disposable Medical Supplies and Durable Medical Equipment**.

Statement of Purpose

The purpose of this action is to require Durable Medical Equipment and Supply providers to be accredited by a Medicare approved accreditation organization as a condition of Medicaid enrollment and out-of-State providers, more than 25 miles beyond the Maryland state line, to supply site visit documentation completed by Medicare or another state Medicaid agency.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to

dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.03 Conditions for Participation.

To participate in the Program, the provider:

A. Shall, unless exempt from Medicare accreditation requirements:

(1) Be **[**an accredited Medicare provider of disposable medical supplies and durable equipment**]** *accredited by a Medicare-approved accreditation organization*;

(2)—(3) (text unchanged)

B. (text unchanged)

C. If located more than 25 miles from the border of Maryland, shall provide to the Program documentation demonstrating that the enrollment and screening requirements of 42 CFR Part 455, Subpart E, have been performed within the 12 months preceding the application for initial enrollment or revalidation of enrollment by:

(1) A Medicare contractor; or

(2) The Medicaid agency or the Children's Health Insurance Program of another state;

[C.**]** *D.*—**[**H.**]** *I.* (text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.18 Oxygen and Related Respiratory Equipment Services

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

Notice of Proposed Action

[15-037-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.03** under **COMAR 10.09.18 Oxygen and Related Respiratory Equipment Services**.

Statement of Purpose

The purpose of this action is to require oxygen providers to be accredited by a Medicare approved accreditation organization as a condition of Medicaid enrollment and out-of-State providers, more than 25 miles beyond the Maryland state line, to supply site visit documentation completed by Medicare or another state Medicaid agency.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.03 Conditions for Participation.

To participate in the Program, the provider shall:

A. Unless exempt from Medicare accreditation requirements:

(1) Be **[**an accredited Medicare provider of oxygen**]** *accredited by a Medicare-approved accreditation organization*;

(2)—(3) (text unchanged)

B. (text unchanged)

C. If located more than 25 miles from the border of Maryland, shall provide to the Program documentation demonstrating that the enrollment and screening requirements of 42 CFR Part 455, Subpart E have been performed within the 12 months preceding the application for initial enrollment or revalidation of enrollment by:

(1) A Medicare contractor; or

(2) The Medicaid agency or the Children's Health Insurance Program of another state;

[C.**]** *D.*—**[**Q.**]** *R.* (text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.20 [Personal Care Services] *Community Personal Assistance Services*

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

Notice of Proposed Action

[15-042-P]

The Secretary of Health and Mental Hygiene proposes to repeal existing Regulations **.01—.11** and adopt new Regulations **.01—.19** under **COMAR 10.09.20 Community Personal Assistance Services.**

Statement of Purpose

The purpose of this action is to modify Medicaid coverage of personal assistance services for individuals who do not require an institutional level of care, in order to cover and pay for services in a manner that is consistent with the Program's coverage of personal assistance services under COMAR 10.09.84 Community First Choice for individuals who require an institutional level of care.

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 Regulations and Policy Coordination, 201 W. Preston Street, or call 410-767-6499, or email to dhmh.regs@maryland.gov, or fax to 410-

767-6384. Comments will be accepted through February 23, 2015. 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 (ADLs)" means tasks or activities that include, but are not limited to:

(a) Bathing and completing personal hygiene routines;

(b) Dressing and changing clothes;

(c) Eating;

(d) Mobility, including:

(i) Transferring from a bed, chair, or other structure;

(ii) Moving, turning, and positioning the body while in bed or in a wheelchair; and

(iii) Moving about indoors or outdoors; and

(e) Toileting, including:

(i) Bladder and bowel requirements;

(ii) Routines associated with the achievement or maintenance of continence; and

(iii) Incontinence care.

(2) "Applicant" means an individual who is applying to receive services under this chapter.

(3) "Assistance" means that another individual:

(a) Physically performs the activity for the participant;

(b) Physically helps the participant to perform the activity;

(c) Is present while the participant performs the activity; or

(d) Cues or encourages the participant to perform the activity.

(4) "Certified medication technician (CMT)" means an individual, regardless of title, 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 monitor in accordance with COMAR 10.27.11.

(5) "Certified nursing assistant (CNA)" means an individual, regardless of title, who:

(a) Is certified by the Maryland Board of Nursing under COMAR 10.39.01; and

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

(6) Community Setting.

(a) "Community setting" means the area, district, locality, neighborhood, or vicinity where a group of people live which provides participants with opportunities to:

(i) Seek employment and work in competitive integrated settings;

(ii) Engage in community life;

(iii) Control personal resources; and

(iv) Receive services.

(b) "Community setting" does not mean:

(i) Hospitals;

(ii) Nursing facilities;

(iii) Institutions for mental diseases;

(iv) Intermediate care facilities for individuals with intellectual disabilities;

(v) Community-based residential facilities for individuals with intellectual or developmental disabilities licensed under COMAR 10.22.02; or

(vi) Other institutions.

(7) "Delegated nursing functions" means nursing services provided to a participant by an enrolled personal assistance provider under the supervision of a:

(a) Registered nurse in accordance with COMAR 10.27.11; or

(b) Nurse practitioner in accordance with COMAR 10.27.07.

(8) "Department" means the Maryland Department of Health and Mental Hygiene, or its authorized agent acting on behalf of the Department.

(9) "Family member" means:

(a) A spouse;

(b) A parent of a minor dependent child; or

(c) An individual who has full and unrestricted powers of guardianship of person or property.

(10) "Fiscal intermediary" means an agency that is under contract with the Department to provide certain services performed on behalf of the Department or the participant, or both, such as:

(a) Employer-related payroll functions, including:

(i) State and federal tax withholding;

(ii) Withholding of union dues; and

(iii) Social Security withholding; and

(b) Verification of eligible services and providers to be reimbursed by the Program, including preauthorizations.

(11) "Home" means the participant's place of residence in a community setting.

(12) "Institution" means an establishment that furnishes, in single or multiple facilities, food, shelter, and some treatment or services to four or more individuals unrelated to the proprietor.

(13) "Instrumental activities of daily living (IADLs)" means tasks or activities that include, but are not limited to:

(a) Preparing meals;

(b) Performing light chores that are incidental to the personal assistance services provided to the participant;

(c) Shopping for groceries;

(d) Nutritional planning;

(e) Traveling as needed;

(f) Managing finances and handling money;

(g) Using the telephone or other appropriate means of communication;

(h) Reading; and

(i) Planning and making decisions.

(14) "Medicaid" means the Program, administered by the State of Maryland under Title XIX of the Social Security Act, which provides comprehensive medical and other health-related care for categorically eligible and medically needy participants.

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

(a) Directly related to diagnostic, preventive, curative, ameliorative, palliative, or rehabilitative 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.

(16) "Nurse" means an individual who is currently licensed to practice nursing in the State under COMAR 10.27.01

(17) "Nurse monitor" means a registered nurse who completes nursing assessments on participants and evaluates the delivery of care.

(18) "Participant" means an individual who:

(a) Has been determined to meet the qualifications for participation in Community Personal Assistance Services as specified in Regulation .03 of this chapter; and

(b) Is enrolled with the Department to receive Medicaid services.

(19) "Participant-employed" means a person employed by the participant who:

(a) Render personal assistance services; and

(b) Meets requirements of Regulation .06 of this chapter.

(20) "Person-centered" means that the plan:

(a) Reflects what is important to the individual and what is important for the individual's health and welfare; and

(b) Is developed with input from the individual and when applicable, the individual's representative.

(21) "Personal assistance provider agency" means a public or private agency that:

(a) Employs or contracts with personal assistance providers; and

(b) Has been enrolled by the Program as a provider of personal assistance services.

(22) Personal Assistance Services.

(a) "Personal assistance services" means assistance specific to the functional needs of a participant with a chronic illness, medical condition, or disability.

(b) "Personal assistance services" includes:

(i) Assistance with activities of daily living and instrumental activities of daily living; and

(ii) The performance of delegated nursing functions.

(23) "Plan of service" means the written person-centered support plan developed by the applicant or participant with support from the supports planner and when applicable, the individual's representative.

(24) "Preauthorization" means an approval required from the Department or its designee before services can be rendered.

(25) "Program" means the Maryland Medicaid Program.

(26) "Provider" has the same meaning as defined in COMAR 10.09.36.

(27) "Provider agreement" means a contract between the Department and the provider for rendering the services under this chapter.

(28) "Recommended plan of care" means the recommended service plan developed by a nurse after a face-to-face evaluation of an applicant or participant.

(29) "Representative" means the person authorized by the individual, on the form provided by the Department, to serve as a representative in connection with the provision of personal assistance services and supports.

(30) "Self-direct" means a consumer-controlled method of selecting and providing services and supports that allows the individual maximum control of the home and community-based personal assistance services and supports, with the individual:

(a) Acting as the employer of record with necessary supports to perform that function; or

(b) Having a significant and meaningful role in the management of a provider of service when services are provided by an agency.

(31) "Supports planner" means an individual who coordinates services, including:

(a) Supporting development of a person-centered plan of service;

(b) Interacting with third parties on behalf of, or in conjunction with, the applicant or participant; and

(c) Ensuring an accurate plan of service is provided to the Department.

(32) "Telephonic timekeeping system" means a system developed by the Department for providers to time stamp the start and finish of services provided to a participant.

.02 Requirements for Provider Licensing or Certification.

A. The following health professionals providing services under this chapter shall be licensed to practice in the jurisdiction in which services are rendered:

(1) Physicians;

(2) Registered nurses;

(3) Licensed practical nurses;

(4) Certified medication technicians; and

(5) Certified nursing assistants;

B. A personal assistance provider who renders personal assistance services in the provider's home shall be licensed under COMAR 10.07.14.

.03 Participant Eligibility.

A. To participate in the Program, the participant shall:

(1) Be determined by the Department to need personal assistance services;

(2) Be eligible for Medicaid under an eligibility group defined in COMAR 10.09.24; and

(3) Reside at home.

B. To be eligible for participation, a participant shall have an active plan of service. The plan of service shall:

(1) Be based on:

(a) The evaluation and recommended plan of care; and

(b) Consultation with the applicant or participant;

(2) Address the applicant's or participant's needs;

(3) Specify the services needed to safely support the participant in the community, including a plan for receiving personal assistance services in case of an emergency;

(4) Specify the name of the personal assistance provider or agency providing personal assistance services; and

(5) Include the signature of the:

(a) Participant or if applicable, the individual's representative;

(b) Supports planner, and

(c) Personal assistance provider listed within the plan of service.

C. A participant's eligibility for services shall be re-evaluated by the Department every 12 months, or more frequently if needed due to a significant change in the participant's condition or needs.

D. Participant eligibility shall be terminated if the participant:

(1) No longer meets the required level of care;

(2) No longer resides at home;

(3) Is without personal assistance services for 30 consecutive calendar days;

(4) Voluntarily chooses, or the participant's legal representative chooses on the participant's behalf, to disenroll from the Program;

(5) Moves to another state;

(6) Is an inpatient for 30 consecutive days or more in an institutional setting, including but not limited to a chronic hospital or nursing facility; or

(7) Dies.

.04 Conditions for Provider Participation — General Requirements.

A. To participate as a provider of a service covered under this chapter, a provider:

(1) Shall meet all of the conditions for participation as a Medicaid provider as set forth in COMAR 10.09.36, except as otherwise specified in this chapter;

(2) Shall obtain written verification of the qualifications of all individuals who render services on the provider's behalf and provide a copy of the current license or credentials on request;

(3) Shall implement the reporting and follow-up of incidents and complaints in accordance with the Department's established policy by:

(a) Reporting incidents and complaints within 24 hours of knowledge of the event;

(b) Submitting a written report within 7 calendar days on a form designated by the Department; and

(c) Notifying the local department of social services immediately if the provider has a reason to believe that the participant has been subjected to abuse, neglect, self-neglect, or exploitation, in accordance with COMAR 07.02.16;

(4) Shall agree to cooperate with required inspections, reviews, and audits by authorized governmental agents;

(5) Shall agree to provide services, and to subsequently bill the Department in accordance with the reimbursement methodology specified in this chapter, for only those services covered under this chapter which have been:

(a) Pre-approved in the participant's plan of service;

(b) Provided in a manner consistent with the participant's plan of service; and

(c) Identified in the provider agreement as within the scope of the provider's Medicaid participation;

(6) Shall agree to maintain and have available written documentation of services, including dates and hours of services provided to participants, for a period of 6 years, in a manner approved by the Department;

(7) Shall agree not to suspend, terminate, increase, or reduce services for an individual without authorization from the Department and only after consultation and input from the participant or a participant's representative when applicable;

(8) Shall submit a transition plan to the case manager or supports planner and participant or participant's representative when applicable when suspending or terminating services;

(9) Shall verify Medicaid eligibility at the beginning of each month that services will be rendered; and

(10) May not be a Medicaid provider or principal of a Medicaid provider that has overpayments that remain due to the Department.

B. To participate as a provider of a service covered under this chapter, a provider or its principals may not, within the past 24 months, have:

(1) Had a license or certificate suspended or revoked as a health care provider, health care facility, or provider of direct care services;

(2) Been suspended or removed from participating as a Medicaid provider under COMAR 10.09.84;

(3) Undergone the imposition of sanctions under COMAR 10.09.36.08;

(4) Been subject to disciplinary action, including actions by the licensing board or any provider or principal of any provider agency;

(5) Been cited by a State agency for deficiencies which affect participants' health and safety; or

(6) Experienced a termination of a Medicaid provider agreement or been barred from work or participation by a public or private agency due to:

(a) Failure to meet contractual obligations; or

(b) Fraudulent billing practices.

C. A provider who renders health-related services to participants shall agree to:

(1) Periodically provide information about a participant in accordance with the procedures and forms designated by the Department; and

(2) Share and discuss the documented information at the request of the participant.

.05 Specific Conditions for Provider Participation — Personal Assistance.

A. To participate in the Program as a participant-employed provider of personal assistance services under this chapter, unless otherwise exempted under §E of this regulation, a personal assistance provider shall:

(1) Be at least 18 years old;

(2) Be legally eligible for employment rendering personal assistance services in the State;

(3) Be able to communicate, read, write, and follow directions in English;

(4) Be currently certified by an organization accepted by the Department to provide training in the following areas:

(a) Cardiopulmonary resuscitation; and

(b) Basic first aid;

(5) Accept instruction on the personal assistance services required in the participant's plan of service from the following:

(a) The participant;

(b) The nurse monitor;

(c) The supports planner;

(d) A treating physician or nurse practitioner;

(e) Other involved professionals; and

(f) An individual from the Department;

(6) Be selected by the participant;

(7) Submit to a pre-employment criminal background investigation for which the prospective provider shall:

(a) Submit an application for a criminal history record check to the Criminal Justice Information System Office, Department of Public Safety and Correctional Services; and

(b) Direct the Department of Public Safety and Correctional Services to send the criminal history report to the Department;

(8) Agree to use a telephonic timekeeping system to:

(a) Document time; and

(b) Submit claims for payment;

(9) Understand and carry out the participant's plan of service;

(10) If performing delegated nursing functions, be supervised by a nurse monitor in accordance with COMAR 10.27.11; and

(11) Before rendering services to any participant, be determined by the nurse monitor to be competent to perform any delegated nursing tasks.

B. To participate in the Program as a participant-employed provider of personal assistance services, a personal assistance provider may not:

(1) Be the participant's family member;

(2) Be the participant's representative;

(3) Have been convicted of, received a probation before judgment for, or entered a plea of nolo contendere to, a felony or any crime involving moral turpitude or theft, or have any other criminal history that indicates behavior which is potentially harmful to participants; or

(4) Be cited on the Board of Nursing Alert or any other registries with a determination of abuse, misappropriation of property, financial exploitation, or neglect.

C. An agency that provides personal assistance services shall:

(1) Be licensed as a Residential Service Agency under COMAR 10.07.05;

(2) Employ a registered nurse who shall:

(a) Assess each new participant who requires personal assistance services;

(b) Participate in developing the provider instructions and in assigning appropriate personnel;

(c) Delegate nursing tasks, as appropriate, to a CNA or a CMT in accordance with COMAR 10.27.11; and

(d) Participate in instructing the individuals who will provide the assistance, when indicated;

(3) Employ individuals to provide personal assistance services who meet the conditions of §§A and B of this regulation;

(4) Either provide services directly through their employees or arrange for the provision of services under the direction of the individual receiving services;

(5) Allow participants to have a significant role in the selection and dismissal of the providers of their choice, for the delivery of their specific care, and for the services and supports identified in their person-centered service plan;

(6) Notify the Department in writing at least 45 days in advance of any:

(a) Voluntary closure;

(b) Change of ownership;

(c) Change of location;

(d) Sale of the business;

(e) Change in the name under which the provider is doing business; or

(f) Change in provider tax identification number;

(7) Include in the notice to the Department the method for informing participants and representatives of its intent to close, change ownership, change location, or sell its business;

(8) Include in the notice to the Department, and inform participants and representatives, of the transition plan developed by the agency to ensure continuity of services to participants;

(9) If applicable, apply for a new license whenever ownership is to be transferred from the person or organization named on the license to another person or organization in time to assure continuity of services; and

(10) Submit a Medicaid provider application to the Department if the new owner chooses to participate in the Program.

D. A participant-employed or agency-employed provider of personal assistance services who performs delegated nursing services in accordance with COMAR 10.27.11 shall:

(1) If required to administer medications in accordance with the plan of service, be a certified medications technician; and

(2) If performing other delegated nursing functions, also be a certified nursing assistant.

E. Exemptions.

(1) Subject to approval by the Department, participant-employed providers of personal assistance services may be exempted from the qualifications of §§A(1), (3), and (4) and B(3) of this regulation, if:

(a) The exemption is made at the request of the participant that the provider serves; and

(b) The exemption request is submitted in a format designated by the Department.

(2) A provider that has been exempted from any qualification may only serve the participant or participants who have requested the exemption.

(3) The Department may:

(a) Grant conditional exemptions; and

(b) Revoke exemptions for cause.

F. If requested by the agency or applicant to provide personal assistance services the Department may waive the provisions of §B(3) of this regulation if the agency or applicant demonstrates that:

(1) The conviction, probation before judgment, or a plea of nolo contendere to a felony or any crime involving moral turpitude or theft was entered more than 10 years before the date of the provider application; and

(2) The criminal history does not indicate behavior that is potentially harmful to participants.

.06 Specific Conditions for Provider Participation — Supports Planning.

To participate in the Program as a supports planning provider under Regulation .10 of this chapter, a provider shall be:

A. Identified by the Department through a solicitation process and agree to be monitored by the Department; or

B. The area agency on aging enrolled to provide case management services under COMAR 10.09.54.

.07 Specific Conditions for Provider Participation — Nurse Monitoring.

To participate in the Program as a nurse monitoring provider under Regulation .11 of this chapter, a provider shall:

A. Be designated by the Department through a process approved by the Centers for Medicare and Medicaid Services in accordance with §1915(b)(4) of the Social Security Act;

B. Employ or contract with registered nurses who hold a current professional license to practice in Maryland;

C. Agree to accept all referrals from the Department; and

D. Agree to be monitored by the Department.

.08 Covered Services — General.

The Program shall reimburse for the services specified in Regulations .09—.11 of this chapter, when, pursuant to the requirements of this chapter, these services have been pre-approved by the Department in the participant's plan of service, billed in accordance with the payment procedures in Regulation .14 of this chapter, and documented as necessary to prevent institutionalization.

.09 Covered Services — Personal Assistance.

A. Definition. "Unit of service" means a 15-minute increment of service that is approved in the plan of service and rendered to a participant by a qualified provider in the participant's home or a community setting.

B. The Program covers the following services when provided by a personal assistance provider:

(1) Assistance with activities of daily living;

(2) Delegated nursing functions if this assistance is:

(a) Specified in the participant's plan of service; and

(b) Rendered in accordance with the Maryland Nurse Practice Act, COMAR 10.27.11, and other requirements of the Maryland Board of Nursing;

(3) Assistance with tasks requiring judgment to protect a participant from harm or neglect;

(4) Assistance with or completion of instrumental activities of daily living, provided in conjunction with the services covered under §B(1)—(3) of this regulation; and

(5) Assistance with the participant's self-administration of medications, or administration of medications or other remedies, when ordered by a physician.

C. Personal assistance services may not include:

(1) Services rendered to anyone other than the participant or primarily for the benefit of anyone other than the participant;

(2) The cost of food or meals prepared in or delivered to the home or otherwise received in the community; or

(3) Housekeeping services, other than those incidental to services covered under §B of this regulation.

.10 Covered Services — Supports Planning.

A. Definition. "Unit of service" means a 15-minute increment of service that is approved by the Department and rendered to a participant by a qualified provider.

B. Supports planning services shall:

(1) Address the individualized needs of the participant;

(2) Be sensitive to the educational background, culture, and general environment of the participant;

(3) Support the participant to self-direct services; and

(4) Allow participants to exercise as much control as desired to select, train, supervise, schedule, determine duties, and dismiss the personal assistance provider.

C. Supports planning services include time spent by a qualified provider conducting any of the following activities:

(1) Assisting the participant in developing a person-centered plan of service in consultation with the applicant or participant and any individual requested by the participant;

(2) Assisting the participant with referral, access, and coordination of services, both Medicaid and non-Medicaid, to address the participant's needs including, but not limited to:

(a) Behavioral health;

(b) Educational services;

(c) Disposable medical supplies and durable medical equipment;

(d) Housing;

(e) Medical services; and

(f) Social services;

(3) Monitoring the provision of services to determine if services are received in accordance with the plan of service;

(4) Using information technology systems developed by the Department;

(5) Coordinating with the fiscal intermediary to assist in managing budgeted resources;

(6) Providing guidance and support to help individuals self-direct their services; and

(7) Verifying the participant's eligibility at the beginning of each month that personal assistance services will be rendered.

.11 Covered Services — Nurse Monitoring.

A. Definition. "Unit of service" means a 15-minute increment of service that is approved by the Department and rendered to a participant by a qualified provider.

B. The program covers the following services when provided by a nurse monitor:

(1) Developing provider instructions for personal assistance;

(2) Instructing the individual providing personal assistance services concerning the services required under the participant's provider instructions and the conditions that should be brought to the attention of the supports planner, nurse monitor, or personal physician;

(3) Availability to give instruction and to answer questions;

(4) Complying with the Department's reportable events policy; and

(5) Maintaining an up-to-date client profile in an electronic database designated by the Department.

C. The Program covers nurse monitoring services according to the following schedule:

(1) Contact with the participant for the purpose of reviewing participant status at a minimum of every 6 months with at least one in-person home or workplace visit every 12 months; and

(2) Additional nurse monitoring services in accordance with COMAR 10.27.09 and 10.27.11 at a frequency established in conjunction with the participant, and the representative when applicable, based on the participant's medical condition or clinical status.

D. Home and Workplace Visits.

(1) The nurse monitoring provider shall use the home or workplace visit for the following purposes:

(a) To assess the participant's condition;

(b) To delegate nursing tasks to a CNA or CMT in accordance with COMAR 10.27.09 and 10.27.11;

(c) To assess the quality of personal assistance services;

(d) To provide instruction to the individual providing personal assistance services; and

(e) To determine the need for discharge from personal assistance services or referral to other services.

(2) The nurse monitor shall assess the quality of personal assistance services by:

(a) Reviewing the provider instructions;

(b) Observing the interactions and relationship between the participant and the individual providing personal assistance services;

(c) Observing the performance of the individual providing personal assistance services; and

(d) Evaluating the performance of individuals to whom nursing tasks have been delegated.

.12 Conditions for Reimbursement.

The Program shall reimburse for the services specified in Regulations .09—.11 of this chapter, if provided in accordance with the requirements of this chapter, and if the service:

A. Is recommended on the participant's plan of service as necessary in order to assure the health and safety of an applicant or participant in the community;

B. Has been pre-approved by the Department in the participant's plan of service;

C. Is provided to an enrolled participant;

D. Is medically necessary; and

E. Is provided by a Medicaid provider who meets the conditions for participation under this chapter.

.13 Limitations.

A. The Department shall establish a budget for personal assistance services that may be included in the participant's plan of service, based on each participant's assessed need.

B. The Program does not cover the following services:

(1) Service primarily for the purpose of housekeeping unrelated to the participant's activities of daily living, such as:

(a) Cleaning of the floor and furniture in areas not occupied by the participant;

(b) Laundry other than that incidental to the care of the participant; and

(c) Shopping for groceries or household items unless in the company of the participant;

(2) Meals delivered to the home;

(3) Services provided by providers not approved for participation by the Department;

(4) Expenses incurred while escorting participants:

(a) To obtain medical diagnosis or treatment;

(b) To or from the participant's workplace; or

(c) For participation in social or community activities;

(5) Expenses related to room and board for either the participant or the personal assistance provider; or

(6) Personal assistance services provided outside the State of Maryland for more than 14 days per calendar year.

C. Personal assistance services provided to a participant younger than 18 years of age to substitute for care ordinarily rendered by the parent or guardian shall be considered medically necessary when the:

(1) Participant requires an awake and alert caregiver at all times;

(2) Parent or guardian provides documentation, including work schedule, commuting times, and school attendance records, that substitute care is necessary to allow employment or school attendance; or

(3) Parent or guardian provides documentation of emergency circumstances, as determined by the Department, including but not limited to the inability of the primary caregiver to provide care due to hospitalization or an acute debilitating illness.

.14 Payment Procedures.

A. Request for Payment — Personal Assistance. To receive payment as a provider of personal assistance services under Regulation .09 of this chapter, a provider shall use the telephonic timekeeping system approved by the Department to:

(1) Document time; and

(2) Submit claims.

B. Request for Payment — All Other Covered Services. To receive payment as a provider of services covered under Regulations .10 and .11 of this chapter, a provider shall submit claims in accordance with procedures outlined in the Department's billing manual.

C. Billing time limitations are set forth in COMAR 10.09.36.06.

D. Payments.

(1) Payments for services rendered to a participant shall be made:

(a) Directly to a qualified provider; or

(b) Through a fiscal intermediary who shall:

(i) Verify that expenditures are allowable according to a participant's plan of service and budget; and

(ii) Deduct fees and taxes as appropriate.

(2) A provider shall be paid the lesser of:

(a) The provider's usual and customary charge to the general public; or

(b) The rate established according to the fee schedule published by the Department.

E. Rates.

(1) The rate of payment to agencies for personal assistance shall be $16.48 per hour.

(2) The rate of payment to participant-employed personal assistance providers shall be $12.58 per hour, unless a participant chooses to self-direct their services in which case the participant may set the rate of payment at no less than $11.75 and no more than $14.63 per hour.

(3) The Program's rates shall increase on July 1 of each year, subject to the limitations of the State budget, by the lesser of:

(a) 2.5 percent; or

(b) The percentage of the annual increase in the March Consumer Price Index for All Urban Consumers, all items component, Washington-Baltimore, from U.S. Department of Labor, Bureau of Labor Statistics.

.15 Recovery and Reimbursement.

Recovery and reimbursement procedures shall be as set forth in COMAR 10.09.36.07.

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

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

.17 Appeal Procedures — Providers.

Appeal procedures shall be as set forth in:

A. COMAR 10.09.36.09; and

B. COMAR 10.01.03.

.18 Appeal Procedures — Applicants and Participants.

Appeal procedures for applicants and participants are those set forth in:

A. COMAR 10.09.24.13; and

B. COMAR 10.01.04.

.19 Interpretive Regulation.

Interpretive regulatory requirements shall be as set forth in COMAR 10.09.36.10.

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.24 Medical Assistance Eligibility

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

Notice of Proposed Action

[15-039-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations **.08-4** and **.10-2** and amend Regulation **.15** under **COMAR 10.09.24 Medical Assistance Eligibility**.

Statement of Purpose

The purpose of this action is to develop and amend regulations regarding the Long-Term Care (LTC) Insurance Partnership Program that includes:

(1) A resource disregard in a dollar amount equal to the insurance benefit payments made to or on behalf of a Partnership Policyholder;

(2) A disregard from estate recovery of a dollar amount equal to the insurance benefit payments made to or on behalf of a Partnership Policyholder that would otherwise be available to the State; and

(3) State regulatory language for current eligibility policy that establishes the maximum home equity limit allowed in order to be eligible for long term care coverage. These proposed regulations are consistent with the provisions of the federal Deficit Reduction Act of 2005.

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 Regulations and Policy Coordination, 201 W. Preston Street, or call 410-767-6499, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.08-4 Resource Consideration of Long-Term Care Partnership Policies.

A. This regulation establishes the rules for applicants and recipients who:

(1) Own a long-term care (LTC) partnership policy; and

(2) Meet all factors of Medicaid eligibility in accordance with MAGI Exempt coverage groups described in this chapter.

B. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Defined Terms.

(a) "Benefit payment amount" means the dollar value of LTC benefits which an insurance carrier has furnished on behalf of a partnership policyholder and which is disregarded from the resource amount when determining eligibility.

(b) "Insurance carrier" means an insurer who issues an insurance policy and makes benefit payment amounts on behalf of a partnership policyholder.

(c) "Partnership policy" means a LTC insurance policy that meets the requirements as described under COMAR 31.14.03.02 and whose benefit payment amount is disregarded from the resource amount when determining eligibility.

(d) "Partnership policyholder" means an individual who owns a partnership policy under the federal LTC partnership program.

(e) "Reciprocity compact" means an agreement among states having partnership programs that are approved under section 6021(b) of the Deficit Reduction Act of 2005, Public Law 109-171 (DRA).

C. Partnership Policyholder Requirements.

(1) An applicant or recipient shall meet all factors of Medicaid eligibility in accordance with rules for MAGI Exempt coverage groups set forth in this chapter.

(2) An applicant or recipient shall have:

(a) A Maryland partnership policy approved on or after January 1, 2009, that meets all certification requirements, as described in COMAR 31.14.03; or

(b) A partnership policy approved in another state that has joined the national reciprocity compact under the federal LTC partnership program.

(3) An applicant or recipient shall provide documentation of the partnership policy benefit payments that have been issued by an insurance carrier.

(4) Subject to Regulation .10-2E of this chapter, an applicant or recipient who applies for LTC Medical Assistance in a nursing facility or through a waiver program shall be ineligible for payment for nursing facility services, or services under a home and community based waiver program, when the individual's equity interest in home property exceeds the maximum allowable home equity amount as set forth in Regulation .10-2 of this chapter.

D. Eligibility Determination for a Partnership Policyholder.

(1) When determining the resources of an individual in accordance with Regulation .08 of this chapter, there shall be disregarded a dollar value equal to the benefit payment amount.

(2) The benefit payment amount for purposes of the disregard set forth in §D(1) of this regulation shall:

(a) For purposes of initial application, equal the dollar amount of benefits paid to or on behalf of the partnership beneficiary at the time of application; and

(b) For purposes of redetermination, equal the benefit payment amount in §D(2)(a) of this regulation and the value of any additional benefits paid to or on behalf of the partnership beneficiary up to the time of redetermination, until all benefits under the partnership policy are exhausted.

(3) At the time of application and at each redetermination, the Department shall request documentation of the benefit payment amount.

E. With the exception of an amount equal in value to the benefit payment amount applied at the most recent redetermination period, partnership policyholders will continue to be subject to a penalty for asset transfers for less than fair market value in accordance with Regulation .08 of this chapter.

F. Estate recovery by the Department is limited as set forth in Regulation .15A-3(5) of this chapter.

.10-2 Substantial Home Equity and Exclusion of Long-Term Care Coverage.

A. Subject to §E of this regulation, an institutionalized individual is not covered by Medical Assistance for long-term care services in a nursing facility, medical institution with a level of care equivalent to a nursing facility, or home and community-based services waiver if:

(1) The individual's equity interest in the individual's home property, reduced by any bona fide, legally binding, documented encumbrances secured by the home, exceeds the amount specified in §D of this regulation; and

(2) The individual does not have, lawfully residing in the home, the individual's spouse or the individual's son or daughter who is:

(a) Younger than 21 years old; or

(b) Blind or disabled as determined under Regulation .05-4 of this chapter.

B. For all applications received on January 1, 2007 or after, the Department shall evaluate the institutionalized individual's equity interest in the individual's home property if the individual is determined eligible for Medical Assistance based on:

(1) An initial determination of nursing facility or waiver eligibility;

(2) A reapplication for nursing facility or waiver eligibility after a break in nursing facility or waiver eligibility; or

(3) A redetermination after an initial determination or reapplication in accordance with §B(1) or (2) of this regulation.

C. The institutionalized individual's equity interest in the individual's home property shall be evaluated by the Department, in accordance with §§A and B of this regulation, at:

(1) The determination of nursing facility or waiver eligibility; and

(2) Each subsequent redetermination of nursing facility or waiver eligibility.

D. The maximum allowable equity interest specified at §A(1) of this regulation shall be $543,000 in calendar year 2014, adjusted annually as set forth in section 6014 of the Deficit Reduction Act of 2005, Pub. L. 109-171 (DRA) by the percentage increase in the consumer price index for all urban consumers, rounded to the nearest $1,000.

E. Reductions to Equity Interest.

(1) If the individual has ownership interest in no property other than the home, the benefit payment amount shall be applied to reduce an equal amount of home equity.

(2) A mortgage, reverse mortgage, home equity loan, lien, or other bona fide encumbrance received by the individual and secured by the home property may be considered by the Department to reduce the individual's equity interest in the home.

F. An exclusion of long-term care coverage, in accordance with §A of this regulation, shall be applied even if there is a legal impediment to transferring or selling the home property.

G. The Department may waive the application of §F of this regulation if the Department determines that denial of eligibility for long-term care coverage would work an undue hardship.

.15 Liens, Adjustments, and Recoveries.

A.—A-2. (text unchanged)

A-3. Adjustments and Recoveries.

(1)—(4) (text unchanged)

(5) The Department may not seek recovery from the estate of a deceased individual to the extent of the value of LTC partnership policy benefits furnished to the individual up to the time of death.

B.—F. (text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.84 Community First Choice

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

Notice of Proposed Action

[15-038-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.02—.07**, **.15**, **.20**, **.23**, **.24**, and **.27** under **COMAR 10.09.84 Community First Choice**.

Statement of Purpose

The purpose of this action is to align the language in the Community First Choice regulations with the language in the proposed amendments to COMAR 10.09.20 Community Personal Assistance Services; make grammatical corrections; update the current requirement to allow people to stay in the program under less restrictive terms; and to include rates.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) "Assistance" means that another **[**person**]** *individual*:

(a)—(d) (text unchanged)

(4)—(5) (text unchanged)

(6) "Certified medication technician (CMT)" means an individual, regardless of title, who:

(a) (text unchanged)

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

(c) (text unchanged)

(7)—(8) (text unchanged)

(9) **[**"Community setting" is the area, district, locality, neighborhood, or vicinity where a group of people live.**]** *Community Setting.*

(a) **[**A community setting provides participants with opportunities to:**]** *"Community setting" means the area, district, locality, neighborhood, or vicinity where a group of people live which provides participants with opportunities to:*

(i)—(iv) (text unchanged)

(b) "Community setting" does not **[**include**]** *mean*:

(i)—(iv) (text unchanged)

(v) Community-based residential facilities for individuals with intellectual or developmental disabilities licensed under COMAR **[**10.22.03**]** *10.22.02*; or

(vi) (text unchanged)

(10) (text unchanged)

(11) "Delegated nursing functions" means nursing services provided to a participant by an enrolled personal assistance provider under the supervision of a **[**registered nurse in accordance with COMAR 10.27.11 or nurse practitioner in accordance with COMAR 10.27.07.**]**:

(a) Registered nurse in accordance with COMAR 10.27.11; or

(b) Nurse practitioner in accordance with COMAR 10.27.07.

(12)—(13) (text unchanged)

(14) "Fiscal intermediary" means an agency that is under contract with the Department to provide **[**fiscal intermediary services that provides**]** certain services performed on behalf of the Department or the participant, or both, such as:

(a) Employer-related payroll functions, **[**such as State and federal tax withholding, withholding of union dues, and Social Security withholding; and**]** *including:*

(i) State and federal tax withholding;

(ii) Withholding of union dues; and

(iii) Social Security withholding; and

(b) Verification of eligible services and providers to be reimbursed by the Program, including preauthorizations **[**in some instances**]**.

(15)—(18) (text unchanged)

(19) "Medicaid" means the **[**Maryland Medical Assistance**]** Program, administered by the State of Maryland under Title XIX of the Social Security Act, which provides comprehensive medical and other health-related care for categorically eligible and medically needy participants.

(20) (text unchanged)

(21) "Nurse" means an individual who is currently licensed to practice nursing in the State under COMAR **[**10.27**]** *10.27.01*.

(22) "Nurse monitor" means a registered nurse who **[**assesses**]** *completes nursing assessments on* participants and evaluates the delivery of care.

(22)—(25) (text unchanged)

(26) "Person-centered" means that the plan reflects what is important to the individual, what is important for his or her health and welfare, and *is* developed with input from the individual and the individual's representative when applicable.

(27) (text unchanged)

(28) Personal Assistance Services.

(a) "Personal assistance services" means assistance specific to the functional needs of a participant with a chronic illness, medical condition, or disability **[**and includes assistance with activities of daily living and instrumental activities of daily living**]**.

(b) "Personal assistance services" includes **[**the performance of some delegated nursing functions.**]***:*

(i) Assistance with activities of daily living and instrumental activities of daily living; and

(ii) The performance of delegated nursing function.

(29)—(30) (text unchanged)

(31) "Program" means the **[**Medical Assistance**]** *Maryland Medicaid* Program.

(32)—(34) (text unchanged)

(35) "Recommended plan of care" means the recommended service plan developed by a nurse after a face-to-face **[**assessment**]** *evaluation* of an applicant or participant.

(36)—(37) (text unchanged)

(38) "Supports planner" means an individual who coordinates services, including:

(a)—(b) (text unchanged)

(c) **[**The responsibility for ensuring**]** *Ensuring* an accurate plan of service is provided to the Department.

(39) "Telephonic timekeeping system" means a system developed by the Department **[**that certain providers are required to use to accurately**]** *for providers to* time stamp the start and finish of services provided to a participant.

.03 Requirements for Provider Licensing or Certification.

A. The following health professionals providing services under this chapter shall be licensed to practice in the jurisdiction in which services are rendered:

(1)—(3) (text unchanged)

[(4) Licensed vocational nurses;**]**

[(5)**]** *(4)*—**[**(11)**]** *(10)* (text unchanged)

[B. The following shall be appropriately licensed, certified, or approved by the Department to provide services under this chapter:

(1) Licensed home health agency under COMAR 10.09.04;

(2) Certified residential services agency under COMAR 10.07.05;

(3) Medical Assistance personal assistance provider under COMAR 10.09.20;

(4) A personal assistance provider who renders personal assistance services in his or her home under COMAR 10.07.14; and

(5) Nursing Referral Service Agency under COMAR 10.07.07.**]**

B.A personal assistance provider who renders personal assistance services in his or her home shall be licensed under COMAR 10.07.14.

.04 Participant Eligibility.

A. To be eligible for participation, a participant shall be determined by the Department to:

(1) Require the level of care provided in a hospital, nursing facility, or an intermediate care facility for individuals with intellectual disabilities; **[**and**]**

(2) Be eligible for **[**the Maryland Medical Assistance Program**]** *Medicaid* under an eligibility group defined in COMAR 10.09.24**[.]**; *and*

(3) Reside at home.

B. To be eligible for participation, a participant **[**must**]** *shall* have an active plan of service. The plan of service shall:

(1) Be based on:

(a) The **[**assessment**]** *evaluation* and recommended plan of care; and

(b) Consultation **[**from**]** *with* the applicant or participant;

(2)—(4) (text unchanged)

(5) Include the signature of the participant **[**,**]** *or* the individual's representative if applicable, the supports planner, and the personal assistance provider listed within the plan of service.

C. (text unchanged)

D. Participant eligibility shall be terminated if the participant:

(1)—(2) (text unchanged)

(3) Is without **[**personal assistance**]** services for 30 *consecutive calendar* days;

(4)—(7) (text unchanged)

.05 Conditions for Provider Participation — General Requirements.

A. To participate as a provider of a service covered under this chapter, a provider **[**shall**]**:

(1) **[**Meet**]** *Shall meet* all of the conditions for participation as a Maryland Medical Assistance Program provider as set forth in COMAR 10.09.36, except as otherwise specified in this chapter;

(2) **[**Verify**]** *Shall obtain written verification of* the qualifications of all individuals who render services on the provider's behalf, and provide a copy of the current license or credentials upon request;

(3) **[**Implement**]** *Shall implement* the reporting and follow-up of incidents and complaints in accordance with the Department's established policy by:

(a)—(c) (text unchanged)

(4) **[**Agree**]** *Shall agree* to cooperate with required inspections, reviews, and audits by authorized governmental agents;

(5) **[**Agree**]** *Shall agree* to provide services, and to subsequently bill the Department in accordance with the reimbursement methodology specified in this chapter, for only those services covered under this chapter which have been:

(a)—(c) (text unchanged)

(6) **[**Agree**]** *Shall agree* to maintain and have available written documentation of services, including dates and hours of services provided to participants, for a period of 6 years, in a manner approved by the Department;

(7) **[**Agree**]** *Shall agree* not to suspend, terminate, increase, or reduce services for an individual without authorization from the Department and **[**with**]** *only after* consultation and agreement from the participant or a participant's representative when applicable;

(8) **[**Submit**]** *Shall submit* a transition plan to the case manager or supports planner and participant or participant's representative when applicable when suspending or terminating services;

[(9) Demonstrate substantial, sustained compliance with the requirements of this chapter for at least 24 months after a cited deficiency which presented serious danger to participants' health and safety;**]**

[(10)**]** *(9)* **[**Verify**]** *Shall verify* Medicaid eligibility at the beginning of each month that services will be rendered; and

[(11)**]** *(10)* **[**Not**]** *May not* be a Medicaid provider or principal of a Medicaid provider that has overpayments that remain due to the Department.

B. (text unchanged)

C. A provider who renders health-related services to participants shall agree to:

(1) Periodically **[**indicate the condition of**]** *provide information about* a participant in accordance with the procedures and forms designated by the Department; and

(2) (text unchanged)

.06 Specific Conditions for Provider Participation — Personal Assistance Services.

A. To participate in the Program as a consumer-employed provider of personal assistance services under this chapter, unless otherwise exempted under §E of this regulation, a personal assistance provider shall:

(1)—(3) (text unchanged)

(4) Be currently certified by an organization **[**recognized**]** *accepted* by the **[**Board of Nursing**]** *Department* to provide training in the following areas:

(a)—(b) (text unchanged)

(5) Accept instruction **[**and training**]** on the personal assistance services required in the participant's plan of service from the following:

(a)—(c) (text unchanged)

(d) A treating physician *or nurse practitioner*;

(e)—(f) (text unchanged)

(6)—(7) (text unchanged)

(8) Agree to use a telephonic timekeeping system to:

(a) (text unchanged)

(b) Submit claims for payment**[.]**;

(9)—(11) (text unchanged)

B. To participate in the Program as a **[**consumer**]** *participant*-employed provider of personal assistance services, a personal assistance provider may not:

(1)—(4) (text unchanged)

C. An agency that provides personal assistance services shall:

[(1) Employ individuals to provide personal assistance services who meet the conditions of §§A and B of this regulation;

(2) Employ a registered nurse who may delegate nursing tasks to a CNA or CMT in accordance with COMAR 10.27.09 and 10.27.11;

(3) Either provide services directly through their employees or arrange for the provision of services under the direction of the individual receiving services;

(4) Allow participants to have a significant role in the selection and dismissal of the providers of their choice, for the delivery of their specific care, and for the services and supports identified in their person-centered service plan;

(5) Be licensed as a:

(a) Residential Service Agency under COMAR 10.07.05;

(b) Home Health Agency under COMAR 10.07.10; or

(c) Nursing Referral Service Agency under COMAR 10.07.07;**]**

(1) Be licensed as a Residential Service Agency under COMAR 10.07.05;

(2) Employ a registered nurse who shall:

(a) Assess each new participant who requires personal assistance services;

(b) Participate in developing the provider instructions and in assigning appropriate personnel;

(c) Delegate nursing tasks, as appropriate, to a CNA or a CMT in accordance with COMAR 10.27.11; and

(d) Participate in instructing the individuals who will provide the assistance, when indicated;

(3) Employ individuals to provide personal assistance services who meet the conditions of §§A and B of this regulation;

(4) Either provide services directly through their employees or arrange for the provision of services under the direction of the individual receiving services;

(5) Allow participants to have a significant role in the selection and dismissal of the providers of their choice, for the delivery of their specific care, and for the services and supports identified in their person-centered service plan;

(6)—(10) (text unchanged)

D. A **[**consumer**]** *participant*-employed or agency-employed provider of personal assistance services who performs delegated nursing services in accordance with COMAR 10.27.11 shall:

(1)—(2) (text unchanged)

E. Exemptions.

(1) Subject to approval by the Department, **[**consumer**]** *participant*-employed providers of personal assistance services may be exempted from the qualifications of **[**§§ A(2),(4),(5),(8), and B(2)**]** *§§A(1),(3),(4), and B(3)* of this regulation, if:

(a)—(b) (text unchanged)

(2)—(3) (text unchanged)

F. If requested by the agency or applicant to provide personal assistance services the Department may waive the provisions of §**[**B(2)**]** *B(3)* of this regulation if the agency or applicant demonstrates that:

(1)—(2) (text unchanged)

.07 Specific Conditions for Provider Participation — Supports Planning [Services].

To participate in the Program as a supports planning provider under Regulation .15 of this chapter, a provider shall:

A. (text unchanged)

B. Be the **[**Area Agency on Aging**]** *area agency on aging* enrolled to provide case management services under COMAR 10.09.54.

.15 Covered Services — Supports Planning.

A. (text unchanged)

B. Supports planning services shall:

(1)—(3) (text unchanged)

(4) Allow **[**participant**'**s**]** *participants* to exercise as much control as desired to select, train, supervise, schedule, determine duties, and dismiss the personal assistance provider.

C. Supports planning services include time spent by a qualified provider conducting any of the following activities:

(1)—(2) (text unchanged)

(3) Monitoring the provision of services to determine if services are received in accordance with the plan of **[**services**]** *service*;

(4)—(6) (text unchanged)

(7) Verifying the participant's eligibility **[**and**]** at the beginning of each month that personal assistance services will be rendered.

.20 Covered Services — Nurse Monitoring.

A. (text unchanged)

B. The program covers the following services when provided by a nurse monitor:

(1) (text unchanged)

(2) Instructing the individual providing personal assistance services concerning the services required under the participant's provider instructions**[**,**]** and **[**about**]** *the* conditions **[**which**]** *that* should be brought to the attention of the supports planner, nurse monitor, or personal physician;

(3)—(5) (text unchanged)

C.—D. (text unchanged)

.23 Limitations.

A. (text unchanged)

B. The Department shall establish a budget for personal assistance services that may be included in the participant's plan of **[**services**]** *service*, based **[**upon**]** *on* each participant's **[**assessment of**]** *assessed* need.

C. The Program does not cover the following services:

(1) Service primarily for the purpose of housekeeping **[**or**]** unrelated to the participant's activities of daily living, such as:

(a) Cleaning of *the* floor and furniture in areas not occupied by the participant;

(b)—(c) (text unchanged)

(2)—(3) (text unchanged)

(4) Expenses related to room and board for either the participant or the personal assistance provider**[**.**]**;

(5) Transition services more than 60 days post transition;

(6) Personal assistance services provided outside the State for more than 14 days per calendar year.

D. Personal assistance services provided to a participant younger than 18 years old to substitute for care ordinarily rendered by the parent or guardian shall be considered medically necessary when the:

(1) Participant requires an awake and alert caregiver at all times;

(2) Parent or guardian provides documentation, including work schedule, commuting times, and school attendance records, that substitute care is necessary to allow employment or school attendance; or

(3) Parent or guardian provides documentation of emergency circumstances, as determined by the Department, including but not limited to the inability of the primary caregiver to provide care due to hospitalization or an acute debilitating illness.

.24 Payment Procedures.

A. Request for Payment — Personal Assistance **[**Services**]**. To receive payment as a provider of personal assistance services under Regulation .14 of this chapter, a provider shall use the telephonic timekeeping system approved by the Department to:

(1)—(2) (text unchanged)

B.—D. (text unchanged)

E. Rates.

[(1) The Department shall publish a fee schedule for services covered under this chapter which shall be publicly available and updated at least annually or upon any changes made by the Department;**]**

(1) The rate of payment to agencies for personal assistance shall be $16.48 per hour;

(2) The rate of payment to participant-employed personal assistance providers shall be $12.58 per hour, unless a participant chooses to self-direct their services in which case the participant may set the rate of payment at no less than $11.75 and not more than $14.63 per hour;

[(2)**]** *(3)* The Program's rates **[**as specified in the Department's fee schedule**]** shall increase on July 1 of each year, subject to the limitations of the State budget, by the lesser of:

(a)—(b) (text unchanged)

.27 Appeal Procedures — Providers.

Appeal procedures shall be as set forth in **[**COMAR 10.09.36.09**]**:

A. COMAR 10.09.36.09; and

B. COMAR 10.01.03.

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.90 Mental Health Case Management: Care Coordination for Children and Youth

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

Notice of Proposed Action

[15-034-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.16** under **COMAR 10.09.90 Mental Health Case Management: Care Coordination for Children and Youth**.

Statement of Purpose

The purpose of this action is to clarify billing provisions for care coordination case management 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, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.16 Limitations.

A.—C. (text unchanged)

D. The CCO may not bill the Program for:

(1)—(4) (text unchanged)

(5) Activities delivered as part of institutional discharge planning; *or*

[(6) CFT participation, with the exception of when a participant is transferring from one CCO to a different CCO and only with the pre-authorization of the Department; or**]**

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

E.—G. (text unchanged)

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

Subtitle 10 LABORATORIES

10.10.03 Medical Laboratories — Licenses

Authority: *Environment Article, §6-303;* Health-General Article, §§*2-104(b)* and 17-205**[**,**]***;* Annotated Code of Maryland

Notice of Proposed Action

[15-058-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.02** under **COMAR 10.10.03 Medical Laboratories — Licenses**.

Statement of Purpose

The purpose of this action is to provide health care providers with increased access to point-of-care testing to screen for elevated levels of lead in children. Amending COMAR 10.10.03.02B to add whole blood lead testing to the list of tests that qualify for a Letter of Exception will encourage an increase in testing, without compromising patient health or safety. Point-of-care testing will provide an immediate opportunity to treat, educate and counsel families on the impact and effect of childhood exposures to lead.

Moreover, as a result of the recommendations provided by the Maryland Task Force for Point-of-Care Testing and the Laboratory Advisory Committee; and upon the approval and consent of the Maryland Department of the Environment, health care providers will be required to report point-of-care lead test results to MDE's childhood lead registry.

This action will also:

(1) Require physician office and point-of-care laboratories to enroll into a proficiency testing program that has been approved by the Centers for Medicare and Medicaid Services;

(2) Require staff to obtain training on the testing device and testing techniques; and

(3) Require laboratories to maintain records of staff training and competencies.

Comparison to Federal Standards

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

The proposed amendment of COMAR 10.10.03.02 will expand the list of tests that qualify for a Letter of Exception to include whole

blood lead testing on a CLIA waived analyzer. This will permit a physician office or point-of-care laboratory to perform whole blood lead testing by obtaining a Letter of Exception in lieu of a permit to perform this test.

In an effort to test and assess blood lead, a testing system (LeadCare II) has been devised, waived and approved by the Food and Drug Administration for clinical use (21 CFR 862.3550). However, health care providers in the State of Maryland that perform whole blood lead testing on LeadCare II will be required to enroll into a proficiency testing program and will be subject to additional staff training, reporting requirements and maintenance of testing records which is more stringent than the applicable federal standard.

(2) Benefit to the public health, safety or welfare, or the environment:

The proposed action will have an impact on reducing the effects of elevated blood lead in children. Lead found in older homes is still one of the most salient sources for childhood lead exposure in the State of Maryland. Accordingly, the proposed amendment of COMAR 10.10.03.02 will increase the level of screening for children, ensure timely follow-up and provide essential data for public health surveillance.

(3) Analysis of additional burden or cost on the regulated person:

Physician Office and Point-of-Care Laboratories (healthcare providers) will be subject to the cost for implementation of proficiency testing. Approved proficiency testing products for the LeadCare II analyzer are provided by the College of American Pathology, Wisconsin State Laboratory of Hygiene and the American Academy of Family Physicians. These custom products provide point-of-care and waived competency challenges designed to improve waived test results. They evaluate instrument and method performance, troubleshoot, assess staff competency and provide information on staff training.

(4) Justification for the need for more restrictive standards:

The requirement for proficiency testing is designed to reduce the probability of false negatives and ensure that testing laboratories are consistently receiving reliable results. In addition, implementation of proficiency testing is intended to balance the increase in access to blood lead testing with an extra measure of quality assurance to ensure patient safety and reduce medical errors associated with testing.

Estimate of Economic Impact

I. Summary of Economic Impact. Although the CLIA waiver from the U.S. Food and Drug Administration does not require proficiency testing for the LeadCare II analyzer, the proposed amendments will require proficiency testing to ensure the accuracy of point-of-care blood lead test results.

Health care providers that perform whole blood lead testing on a CLIA waived analyzer (LeadCare II) will incur an estimated annual cost of approximately $399 to enroll with an approved Centers for Medicare and Medicaid Services proficiency testing provider. Each health care provider will be forwarded five (5) challenges (or samples) in each of three (3) shipments per year.

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:		
Providers who perform whole blood lead testing	(-)	$16,359
E. On other industries or trade groups:		
Proficiency testing providers	(+)	$16,359
F. Direct and indirect effects on public:	NONE	

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

D. and E. The estimated annual cost has been determined by multiplying the approximate number of health care providers that perform whole blood lead testing on the LeadCare II analyzer (41) by $399 which is the estimated cost to enroll with a proficiency testing provider. Therefore, 41 × $399 = $16,359.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.02 Letters of Exception.

A. (text unchanged)

B. Excepted Tests. A POL or POCL operating under a letter of exception may perform one or more of the following excepted tests or types of tests:

(1)—(33) (text unchanged)

(34) CLIA-waived Prothrombin Time/International Normalized Ratio (PT/INR) with the additional requirements that:

(a) (text unchanged)

(b) When the numerical score is less than 80 percent, the licensee shall submit the official proficiency test results to the Office of Health Care Quality for review and monitoring with evidence of documented remedial actions taken; **[**and**]**

(35) CLIA waived blood lipid analysis for cholesterol, HDL, LDL, and triglycerides**[.]***; and*

(36) Whole blood lead testing on a CLIA waived analyzer with the additional requirements:

(a) The licensee shall enroll into a Proficiency Testing program offered by an entity that has been approved by the Centers for Medicare and Medicaid Services to ensure validation of all measurement capabilities for the instrument used to perform the test;

(b) When the numerical score is less than 80 percent, the licensee shall submit the official proficiency test result to the Office of Health Care Quality for review and monitoring with evidence of documented remedial actions taken;

(c) All staff involved in testing shall undergo training on the testing device and testing techniques with annual competencies;

(d) Records of training and competencies for staff shall be:

(i) Maintained by the laboratory; and

(ii) Made available for review by the Department; and

(e) Reporting requirements stated in §C of this regulation shall be followed.

C. Reporting Requirements for Whole Blood Lead Testing on a CLIA Waived Analyzer.

(1) The blood tests for lead shall:

(a) Be reported under this regulation in the format approved by the Maryland Department of the Environment; and

(b) Include the information required by this regulation.

(2) The blood tests for lead to be reported shall include the following information:

(a) Demographic information including:

(i) Name, including first, last, middle initial;

(ii) Date of birth, sex, and race;

(iii) Complete home address at the time the blood specimen was drawn including house or apartment number, street, city, county or town, zip code, and state;

(iv) Telephone number; and

(v) Parent or guardian name;

(vi) Residential status, for example, whether parent or guardian owns their home or rents;

(b) Type of specimen, either venous or capillary, and date the specimen was drawn;

(c) Clinic or practice name, address, and telephone number;

(d) Draw site name and address, if different from clinic or practice;

(e) Blood lead level in micrograms per deciliter; and

(f) Any additional information as may be required by the Maryland Department of the Environment.

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

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

Subtitle 10 LABORATORIES

10.10.13 Medical Laboratories — Testing for Hereditary and Congenital Disorders in Newborn Infants

Authority: Health General Article, §13-111(d)(4)(iii), Annotated Code of Maryland

Notice of Proposed Action

[15-059-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.06** under **COMAR 10.10.13 Medical Laboratories — Testing for Hereditary and Congenital Disorders in Newborn Infants**.

Statement of Purpose

The purpose of this action is to increase the newborn screening and follow-up fee by $6 to cover the costs associated with adding Severe Combined Immunodeficiency Disorder to the DHMH newborn screening panel. Currently, COMAR 10.10.13.06B requires a fee of $100 for newborn screening and follow-up. The proposed action seeks to increase the fee to $106.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The newborn screening and follow-up fee for implementation of SCID testing will result in an increase of State revenues by $408,000.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)	$408,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	$408,000
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. and D. Implementation of screening for SCID will require a fee increase of $6 per newborn infant born in the State of Maryland. This fee has been derived by assessing the cost of capital equipment, reagents, supplies and an additional two (2) FTE's (Public Health Laboratory Scientist II) to implement and perform testing.

It is estimated that the cost for capital equipment will be approximately $331,700. The equipment will be financed by the State Treasurer's Office over a period of 5 years. An additional cost of 5 percent will be incurred for interest and administrative fees for a total equipment cost of $348,285.

The State Treasurer's Office will finance the interest of the loan during the first six months, and finance the balance of the loan during the remaining 4.5 years. The total annual lease/purchase payments that must be repaid to the State Treasurer's Office is determined by dividing the equipment cost of $348,285 by 4.5 years for a total payment of $77,397 per year.

Moreover, the cost of salaries and benefits (for the two additional FTE's) will total approximately $132,104. Reagents and supplies will cost approximately $253,345. Therefore, the cost for salaries, reagents, supplies, and the lease/purchase payments of $77,397 for capital equipment, will total $462,846 for the first full year of SCID implementation.

In subsequent years, the total amount required for capital equipment, reagents, supplies and personnel for SCID screening is as follows:

1. FY 2017: $76,341 for capital equipment + $163,882 for personnel + $27,000 for instrument contracts + $260,945 for lab supplies/reagents = $528,168.

2. FY 2018: $76,341 for capital equipment + $167,302 for personnel + $27,540 for instrument contracts + $268,773 for lab supplies/reagents = $539,956.

3. FY 2019: $76,341 for capital equipment + $170,810 for personnel + $28,091 for instrument contracts + $276,836 for lab supplies/reagents = $552,078.

4. FY 2020: $76,341 for capital equipment + $174,387 for personnel + $28,653 for instrument contracts + $285,141 for lab supplies/reagents = $564,522.

5. FY 2021: $177,875 for personnel + $29,226 for instrument contracts + $293,695 for lab supplies/reagents = $500,796.

Based on A and D above, the anticipated revenue is $408,000. The increase in revenue has been determined by multiplying the fee

increase of $6 by 68,000 infants that are billed and recovered each year. Therefore, 68,000 x $6 = $408,000. This fee is paid by hospitals and/or birthing centers throughout the State of Maryland who are billed for newborn screening and follow-up services.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.06 Fees.

A. (text unchanged)

B. Screening and Follow-up Fee Requirement. A birthing center or person responsible for having newborn screening carried out for a newborn infant born outside a birthing facility shall pay a fee of **[**$100**]** *$106* per newborn infant to the Department.

C. (text unchanged)

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

Subtitle 14 CANCER CONTROL

10.14.02 Reimbursement for Breast and Cervical Diagnosis and Treatment

Authority: Health-General Article, §§2-102, 2-104, and 2-105, Annotated Code of Maryland

Notice of Proposed Action

[15-036-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01—.15** and **.17** under **COMAR 10.14.02 Reimbursement for Breast and Cervical Cancer Diagnosis and Treatment**.

Statement of Purpose

The purpose of this action is to update regulatory language to ensure that the Reimbursement for Breast and Cervical Cancer Diagnosis and Treatment program (BCCDT) aligns with national screening guidelines for the prevention and early detection of cervical cancer. The proposed amendments also:

(1) Align the BCCDT program with Department of Health and Mental Hygiene Medical Care Program reimbursement regulation changes;

(2) Bring BCCDT program regulations into alignment with current policy and practice pertaining to patient and provider eligibility and reimbursement of services;

(3) Change regulatory citations to align with changed regulations of this and other cited BCCDT program regulations; and

(4) Correct grammatical and spelling errors.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may increase the number of eligible clients for the BCCDT Program as a result of modifying medical eligibility requirements to include women with two consecutive negative Pap/positive human papillomavirus (HPV) co-tests. In March 2012, The U.S. Preventative Services Task Force, The American Cancer Society, American Society for Colposcopy and Cervical Pathology, and American Society for Clinical Pathology published updated "Screening Guidelines for the Prevention and Early Detection of Cervical Cancer." Among the changes was an option to screen average risk women ages 30-64 with Pap/HPV co-testing. Women with a negative Pap result and a positive high risk HPV test should have a repeat co-test in 12 months. If the result of the subsequent co-test is a negative Pap and negative high risk HPV test, normal screening intervals can resume. However, women whose subsequent co-test is again negative for Pap and positive for high risk HPV should have a colposcopy. The Program estimates an additional 75 clients may need the Pap/HPV co-tests, at an average cost of $307.62 per client. 75 clients × $307.62 = $23,071.50

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	$23,071.50
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	$23,071.50
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Indeterminable

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

A. and D. Women with a negative Pap result and a positive high risk HPV test should have a repeat co-test in 12 months. If the result of the subsequent co-test is a negative Pap and negative high risk HPV test, normal screening intervals can resume. However, women whose subsequent co-test is again negative for Pap and positive for high risk HPV should have a colposcopy. The Program estimates an additional 75 clients may need the Pap/HPV co-tests, at an average cost of $307.62 per client.

75 clients × $307.62 = $23,071.50

With the estimated $23,071.50 in expenditures by the BCCDTP Program, the insurance industry will have a positive benefit of the same amount.

F. The effects on the public are expected to be positive overall. Modifying medical eligibility requirements to include women with two consecutive negative Pap/positive HPV co-tests will increase the number of women who are tested and diagnosed early with cervical

cancer. Early diagnosis improves patient health outcomes and reduces mortality. There is a positive benefit but the magnitude is indeterminable.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Scope.

A. (text unchanged)

B. This chapter also defines the:

(1) Responsibilities and duties of the Department, the participating local health department, the hospital-coordinated breast and cervical cancer screening program, the medical provider who determines patient eligibility and refers patients to the Program, and the following participating providers:

(a)—(d) (text unchanged)

(e) **[**Pharmacist**]** *Pharmacy*;

(f)—(k) (text unchanged)

(2) (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(20) (text unchanged)

(21) "Experimental drug" means a drug or biological not:

(a) Approved by the **[**Federal**]** Food and Drug Administration for the treatment of breast cancer or cervical cancer; and

(b) Used under the protocol of a peer-reviewed, Phase-III controlled clinical trial approved by:

(i) The National Institutes of Health (NIH) or one of the NIH's centers or cooperative groups;**[**;**]**

(ii) (text unchanged)

(iii) The Department of **[**Veteran**]** *Veterans* Affairs; or

(iv) (text unchanged)

(22)—(22-1) (text unchanged)

(23) "Family" means the unit comprised of the applicant or the applicant and one or more of the following:

(a) Spouse**[**,**]***;*

(b) A financially dependent child; or

(c) (text unchanged)

(24)—(43) (text unchanged)

(44) "Negative mammogram" means the X-ray revealed:

(a) (text unchanged)

(b) A finding which is **[**nonsignificant**]** *non-significant*, but which may need to be described; or

(c) A finding which is probably **[**nonsignificant**]** *non-significant*, but which may need to be described and which suggests the need for short interval follow-up.

(45)—(48) (text unchanged)

(49) "Participating medical care provider" means a local health department, hospital, or a participating:

(a)—(i) (text unchanged)

(j) Physician; **[**or**]**

(k) Occupational therapist**[**.**]***; or*

(l) Other appropriate medical care providers.

(50)—(56) (text unchanged)

(57) "Physical therapy aide" means a **[**nonlicensed**]** *non-licensed* individual in the employ of a physical therapist.

(58)—(73) (text unchanged)

.03 Patient Eligibility.

A. (text unchanged)

B. A medical condition which may render an applicant medically eligible includes the following:

(1) A mammogram, *or breast ultrasound, or other diagnostic breast imaging* requiring further diagnosis;

(2) (text unchanged)

(3) A Pap test, *or human papilloma virus test, or other approved cervical cancer screening test* requiring further diagnosis;

(4) A breast biopsy which indicates the need for *further diagnosis or* treatment; or

(5) A cervical biopsy which indicates the need for *further diagnosis or* treatment.

C.—D. (text unchanged)

E. An applicant is responsible for the following:

(1) Furnishing factual information regarding the applicant's **[**eligiblity**]** *eligibility*, including but not limited to verifying documents regarding financial eligibility and the applicability of health insurance;

(2) (text unchanged)

(3) Completing and submitting a Medical Assistance application when *notified by the Program that* the applicant is considered potentially eligible.

F.—G. (text unchanged)

.04 Physician Services.

A. To be considered a participating physician in the Program, the provider shall*:*

(1)—(7) (text unchanged)

(8) Agree to the following medical guidelines:

(a) (text unchanged)

(b) That a surgeon shall examine the patient and make the final determination of further diagnostic and treatment procedures needed when a needle biopsy performed by a **[**nonsurgeon**]** *non-surgeon* is negative for cancer;

(c)—(h) (text unchanged)

(9) Agree to **[**send**]** *maintain* the results of the reimbursed medical **[**procedure**]** *procedures* performed **[**to the Department**]** as set forth in **[**§E (7)—(10)**]** *§E(6)—(9)* of this regulation;

(10)—(11) (text unchanged)

B. An eligible medical provider may be, *but is not limited to*, one of the following:

(1)—(8) (text unchanged)

C. Reimbursed medical procedures include, *but are not limited to*, the following:

(1)—(6) (text unchanged)

D. **[**Nonreimbursed**]** *Non-reimbursed* medical procedures and services include but are not limited to:

(1) (text unchanged)

(2) A Pap *or human papilloma virus* test;

(3) (text unchanged)

(4) A procedure or service not related to the diagnosis and treatment of breast and cervical cancer; **[**and**]**

(5) Organ transplants**[**.**]***; and*

(6) Nipple reconstruction or tattooing, or both.

E. The participating physician is responsible for the following:

(1)—(3) (text unchanged)

(4) Charging the patient for a **[**nonreimbursed**]** *non-reimbursed* medical procedure performed;

(5) Submitting a bill for the reimbursed medical procedure performed or service provided on the designated Departmental form within 12 months of the date of service as follows:

(a) If an eligible patient is uninsured or is insured, but the insurance does not provide coverage for the reimbursed medical procedure or service, the participating physician shall send to the Department the bill for the procedure or service, *with a denial from the applicable insurance carrier*, on the form designated by the Department;

(b) If an eligible patient is covered by Medicare **[**or**]** or other insurance, the participating physician shall bill:

(i)—(ii) (text unchanged)

(6) **[**Submitting to the Department within 3 working days of the date that the participating physician receives the report, a copy of the result of the following diagnostic tests**]** *Maintaining reports of the results of the following diagnostic tests and sending to the Department upon request*:

(a)—(c) (text unchanged)

(7) **[**Submitting to the Department within 1 month of the date that the participating physician receives the report, a copy of the result of the following diagnostic tests**]** *Maintaining reports of the results of the following diagnostic tests and sending to the Department upon request*:

(a)—(c) (text unchanged)

(8) **[**Submitting to the Department within 1 month of the date that the participating physician receives the report, information pertaining to the staging of the cancer on the designated form**]**

Maintaining and sending to the Department upon request, reports pertaining to the staging of the cancer; and

(9) **[**Submitting to the Department the result of a treatment procedure, within 1 month of the date the procedure was performed**]** *Maintaining and sending to the Department, upon request, the result of a treatment procedure*.

F.—G. (text unchanged)

.05 Nurse Practitioner Services.

A. (text unchanged)

(1)—(3) (text unchanged)

(4) Agree to accept, for each reimbursed medical procedure performed or service provided, the following reimbursement including, if applicable, a medical management fee as described in Regulation .15 of this chapter:

(a) The current Medical Assistance approved rate in the State for an eligible patient who is uninsured or has insurance that does not provide coverage for a certain procedure or service**[**,**]***;*

(b) The reimbursement rate approved by the insurer plus the payment of the deductible by the Department for an eligible patient who has insurance, other than Medicare, that provides coverage for a certain procedure or service**[**,**]***;*

(c) The reimbursement rate approved by Medicare plus the payment of the deductible and patient contribution amount by the Department for an eligible patient who is covered by Medicare only**[**,**]***;* or

(d) (text unchanged)

(5) (text unchanged)

(6) Agree to the medical, financial, and reporting requirements of the Program pursuant to Regulation **[**.04A(6)—(8), (9)(a)—(e), and (10)—(12)**]** *.04A(6)—(7), (8)(a)—(e), and (9)—(11)* of this chapter.

B.—C. (text unchanged)

D. **[**Nonreimbursed**]** *Non-reimbursed* medical procedures and services include a procedure or service not related to the diagnosis and treatment of breast and cervical cancer.

E. (text unchanged)

.06 Nurse Anesthetist Services.

A. To be considered a participating nurse anesthetist in the Program, the provider shall:

(1)—(5) (text unchanged)

(6) Agree to the medical, financial, and reporting requirements of the Program pursuant to Regulation **[**.04A(6)—(8), (11), and (12)**]** *.04A(6) —(7), (10), and (11)* of this chapter.

B.—C. (text unchanged)

D. **[**Nonreimbursed**]** *Non-reimbursed* medical procedures and services include an anesthesia procedure or service not related to the diagnosis and treatment of breast cancer and cervical cancer.

E. (text unchanged)

.07 Physical Therapy Services.

A. To be considered a participating physical therapist in the Program, the provider shall:

(1)—(3) (text unchanged)

(4) Agree to the medical and reporting requirements of the Program pursuant to Regulation **[**.04A(6), (7), (11), and (12)**]** *.04A(6), (10), and (11)* of this chapter;

(5)—(6) (text unchanged)

B. The Program shall reimburse a participating physical therapist for a medically necessary physical therapy service ordered in writing by a participating physician when the service is:

(1)—(2) (text unchanged)

(3) Considered one or more of the following:

(a) (text unchanged)

(b) Rehabilitative; *or*

[(c) Maintaining; or**]**

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

(4)—(9) (text unchanged)

C. (text unchanged)

[D. Preauthorization is required for physical therapy services pursuant to COMAR 10.09.17.06A-C.**]**

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

[F.**]** *E.* Reimbursement Principles.

(1) The Department shall reimburse the participating physical therapist:

[(a) For a covered service performed in the provider's office for an eligible patient who:

(i) Is uninsured or has insurance that does not provide coverage for the reimbursed procedure or service, the current Medical Assistance approved rate in the State; or

(ii) Has Medicare or other insurance that provides reimbursement for a covered procedure or service, the outstanding deductible, and the patient contribution amount required by the insurer; and

(b) For covered services performed in the home of an eligible patient pursuant to Regulation .11F of this chapter.**]**

(a) The current Medical Assistance approved rate in the State for a covered service performed in the provider's office for an eligible patient who is uninsured or has insurance that does not provide coverage for the reimbursed procedure or service;

(b) The outstanding deductible and patient contribution for a covered service performed in the provider's office for an eligible patient who has Medicare or other insurance that provides reimbursement for a covered procedure or service; and

(c) For covered services performed in the home of an eligible patient pursuant to Regulation .11F of this chapter.

(2) (text unchanged)

[G.**]** *F.* The participating physical therapist shall obtain recovery pursuant to **[**COMAR 10.09.36.07**]** *Regulation .17 of this chapter*.

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

.08 Pharmacy Services.

A. (text unchanged)

B. Reimbursed pharmacy services include but are not limited to the following:

(1) A prescription, when ordered and signed by a prescriber for an eligible patient, within the limits established by the Program which includes:

(a) A legend drug, including but not limited to the following drug classifications:

(i) Analgesic**[**,**]***;*

(ii) Antidepressant**[**,**]***;*

(iii) Antiemetic**[**,**]***;*

(iv) Anti-infective**[**,**]***;*

(v) Antineoplastic agent**[**,**]***;*

(vi) Benzodiazepine**[**,**]***;*

(vii) Colony stimulating factor**[**,**]***;*

(viii) Hormone**[**,**]***;* and

(ix) (text unchanged)

(b) (text unchanged)

(2)—(5) (text unchanged)

C. **[**Nonreimbursed**]** *Non-reimbursed* pharmacy services include but are not limited to:

(1)—(4) (text unchanged)

D. The participating pharmacy responsibilities are as follows:

(1) Monitoring an eligible patient's file for contraindications and toxicity; and

(2) Submitting a bill on the designated Departmental form for the reimbursed:

(a) Medication**[**,**]***;*

(b) Durable medical equipment**[**,**]***;* and

(c) (text unchanged)

E. The Department shall reimburse the participating pharmacy:

(1) Pursuant to COMAR **[**10.09.03.07A—G and H(1)MD>(3), and (5)—(6)**]** *10.09.03.07A—G and H(1)—(3), and (5)—(6)*; and

(2) (text unchanged)

F.—J. (text unchanged)

.09 Hospital Services.

A. (text unchanged)

B. The participating hospital shall receive reimbursement for the following services:

(1) Medically necessary inpatient hospital service for the number of days, per admission, including preoperative days certified by the utilization control agent, which is:

(a) Necessary for the provision of diagnostic, curative, palliative, or rehabilitative treatment for breast cancer or cervical cancer**[**,**]***;* and

(b) (text unchanged)

(2) Medically necessary outpatient hospital service which is:

(a) Necessary for the provision of diagnostic, curative, palliative, or rehabilitative treatment for breast cancer or cervical cancer**[**,**]***;* and

(b) (text unchanged)

C. (text unchanged)

D. Preauthorization Requirements.

(1) The following surgical procedures require preauthorization when performed on a hospital inpatient basis unless the patient is already a hospital inpatient for another condition, or an unrelated procedure is being done simultaneously which itself requires surgical hospitalization. If an emergency necessitates performing any of the listed procedures on an inpatient basis, the provider shall request and obtain **[**postauthorization**]** *post-authorization* before billing. The procedures are:

(a)—(h) (text unchanged)

(2) **[**Unless noted in §D(3) of this regulation, authorization**]** *Authorization* is required by the Program for **[**more than 1**]** *all* preoperative inpatient days.

[(3) Preauthorization is required by the Program for a preoperative inpatient day for the following procedures:

(a) Dilation and curettage; and

(b) Cone biopsy of cervix.**]**

E.—F. (text unchanged)

G. Reimbursement Rates.

(1) A participating hospital located in Maryland shall be reimbursed by the Department:

(a) Pursuant to COMAR **[**10.09.06.09A**]** *10.09.06.09A(1), (2), (9), (10), and (12)* for an eligible patient who is uninsured or who has insurance that does not provide coverage for the reimbursed service;

(b)—(c) (text unchanged)

(2) (text unchanged)

(a) Pursuant to COMAR **[**10.09.06.09A(7)(a), (b)(i) and (ii), and (c)**]** *10.09.06.09A(1), (2), (9)—(10), and (12)* for an eligible patient who is uninsured or who has insurance that does not provide coverage for the reimbursed service;

(b)—(c) (text unchanged)

(3) A participating hospital located in the District of Columbia shall be reimbursed by the Department:

(a)—(b) (text unchanged)

(c) For an eligible patient who has insurance other than Medicare that provides coverage for the reimbursed services, the outstanding deductible, and patient contribution required by the insurer.

H. (text unchanged)

.10 Disposable Medical Supplies and Durable Medical Equipment.

A. (text unchanged)

B. The Department shall reimburse for the following:

(1) (text unchanged)

(2) Eligible durable medical equipment for purchase or rental pursuant to COMAR 10.09.12.04A(2), including but not limited to:

(a) (text unchanged)

(b) An individually form-fitted arm support stocking for a recipient prescribed by the participating physician as medically necessary, not to exceed two stockings at one time or three stockings in a 12-month period for a **[**noninstitutionalized**]** *non-institutionalized* individual;

(c)—(f) (text unchanged)

C. (text unchanged)

D. Preauthorization is required for the disposable medical supply and durable medical equipment pursuant to COMAR **[**10.09.12.06.**]** *10.09.12.06A—F and H.*

E. Reimbursement Procedures. The participating medical supply company:

(1) Shall submit the request for payment for the reimbursed service on the form designated by the Department within 12 months of the date of service as follows:

(a) (text unchanged)

(b) If an eligible patient is covered by Medicare or other insurance, the participating medical supply company shall bill:

(i) (text unchanged)

(ii) The Department for the outstanding deductible **[**and patient contribution amount;**]**, *patient contribution amount, and if the insurer pays less than the current Medical Assistance approved rate for the service, the difference between the insurance reimbursement rate and the Medical Assistance approved rate in the State*;

(2)—(3) (text unchanged)

F. Reimbursement Procedures.

(1) The Department shall reimburse the participating medical supply company:

(a) Pursuant to COMAR **[**10.09.12.07F—I, K, M, and N**]** *10.09.12.07F— K* for an eligible patient who is uninsured or who has insurance that does not provide coverage for the reimbursed service;

(b) (text unchanged)

(c) The outstanding deductible and patient contribution amount required by the insurer for an eligible patient who has insurance, other than Medicare **[**or other insurance**]**, that provides coverage for the reimbursed service.

(2) (text unchanged)

G. (text unchanged)

.11 Home Health Services.

A. To be considered a participating home health services provider in the Program, the provider of home health services shall:

(1)—(2) (text unchanged)

(3) Comply with COMAR **[**10.09.04.03A, B(2)—(3), C(4)—(13), D, and E**]** *10.09.04.03A, B(2)—(3), C(4), and D*, if offering skilled nursing care;

(4)—(5) (text unchanged)

B. (text unchanged)

C. The Program provides reimbursement for the following:

(1) Skilled nursing care provided by a licensed nurse when the complexity of the service requires the **[**judgement**]** *judgment*, knowledge, and skill of a licensed nurse;

(2)—(5) (text unchanged)

D. The Program does not reimburse for services:

(1) (text unchanged)

(2) Pursuant to COMAR **[**10.09.04.05A, B, D—G, I, and K**]** *10.09.04.05A, B, D, G, N, and P;*

(3) Rendered by Home Health Aides; and

(4) Rendered by social workers.

E. (text unchanged)

F. Reimbursement Rates. A non-hospital-based participating home health services provider located in Maryland, or a participating home health services provider located in a jurisdiction bordering Maryland shall be reimbursed by the Department:

(1) Pursuant to COMAR **[**10.09.04.07E**]** *10.09.04.07D* for an eligible patient who is uninsured or who has insurance that does not provide coverage for the reimbursement service; and

(2) (text unchanged)

G. (text unchanged)

.12 Medical Laboratory Services.

A. To be considered a participating medical laboratory in the Program, the provider shall:

(1) Be in compliance with the applicable license requirements for a medical laboratory providing services for Maryland residents including, but not limited to:

(a) Requirements for Medicare certification**[**,**]***;*

(b) Compliance with the requirements pursuant to COMAR 10.10.03.01 if operating in Maryland**[**,**]***;* and

(c) (text unchanged)

(2)—(6) (text unchanged)

B. (text unchanged)

C. A **[**nonreimbursed**]** *non-reimbursed* service includes but is not limited to the following:

(1)—(6) (text unchanged)

D. Reimbursement Procedures. The participating medical laboratory is responsible for:

(1) Submitting a bill for the reimbursed service provided on the form designated by the Department within 12 months of the date of service as follows:

(a) (text unchanged)

(b) If an eligible patient is covered by Medicare or other insurance, the participating medical laboratory shall bill:

(i) Medicare or the other insurance for the service**[**,**]***;* and

(ii) (text unchanged)

(2) (text unchanged)

E. Payment Procedures.

(1) The Department shall pay the participating medical laboratory for a reimbursed service:

(a) (text unchanged)

(b) Pursuant to COMAR **[**10.09.09.07F and G**]** *10.09.09.07F and G(1) and 100 percent of co-insurance for an approved* procedure for an eligible patient who is covered by Medicare.

(2) (text unchanged)

F. (text unchanged)

.13 Freestanding Ambulatory Surgical Center Services.

A. To be considered a participating freestanding ambulatory surgical center in the Program, the provider shall:

(1)—(7) (text unchanged)

(8) Agree to the medical requirements of the Program pursuant to Regulation **[**.04A(8)—(12)**]** *.04A(8)—(11)* of this chapter.

B.—D. (text unchanged)

E. The Department shall pay the participating freestanding ambulatory surgical center for a reimbursed service:

(1) Pursuant to COMAR **[**10.09.42.06A—D**]** *10.09.42.06A—D-1* for an eligible patient who is uninsured or has insurance that does not provide coverage for the reimbursed service;

(2)—(3) (text unchanged)

F. (text unchanged)

.14 Occupational Therapy Services.

A. To be considered a participating occupational therapist in the Program, the provider shall:

(1)—(3) (text unchanged)

(4) Agree to requirements of the Program set forth in Regulation **[**.04A(6)—(7) and (11)—(12)**]** *.04A(6), and (10)—(11)* of this chapter;

(5)—(6) (text unchanged)

B. The cost of an occupational therapist's services are covered as set forth in COMAR **[**10.09.04.04B(1) and (4)**]** *10.09.04.04B(1)*.

C.—D. (text unchanged)

E. Reimbursement Principles.

(1) The Department shall reimburse the participating occupational therapist:

(a) For a covered service performed in the provider's office **[**for an eligible patient who**]** the amount of: **[**(i) Is uninsured or has insurance that does not provide coverage for the reimbursed procedure or service, the current Medical Assistance approved rate for the State;

(ii) Has insurance other than Medicare that provides reimbursement for a covered procedure or service, the outstanding deductible required by the insurer; or

(iii) Is covered by Medicare or other insurance, the outstanding deductible and patient contribution amount; and**]**

(i) The current Medical Assistance approved rate for the State for an eligible patient who is uninsured or has insurance that does not provide coverage for the reimbursed procedure or service; or

(ii) The outstanding deductible and patient contribution for an eligible patient who is covered by Medicare or other insurance; and

(b) (text unchanged)

(2) (text unchanged)

F. The participating occupational therapist shall obtain recovery under **[**COMAR 10.09.37.08**]** *Regulation .17 of this chapter*.

G. (text unchanged)

.15 Medical Management Fee.

A. (text unchanged)

B. The Department shall reimburse a participating medical care provider as outlined in §A of this regulation a medical management fee of $50 each time a reimbursed service:

(1)—(3) (text unchanged)

(4) **[**Is the result of the requirement for timeliness of medical compliance and documentation evaluation pursuant to Regulation .04A(10) of this chapter.**]** *Is billed with the medical management fee for reporting and includes a copy of the relevant medical report including, but not limited to:*

(a) Radiology;

(b) Biopsy;

(c) Operative; or

(d) Staging.

C. (text unchanged)

.17 Reimbursement.

A.—C. (text unchanged)

D. *Insurance or Other Coverage.*

(1) If the patient has insurance or other coverage, the participating medical care provider shall first seek payment from that source.

(2) If an insurance carrier rejects the claim or pays less than the amount of the allowed Assistance Program rate, the provider may submit a claim to the Department.

(3) The provider shall submit a copy of the insurance carrier's notice or remittance advice with the invoice.

(4) The Department shall pay the difference between what was paid by the insurance carrier and the maximum allowable Medical Assistance Program rate.

(5) If payment is made by both the Department and the insurance carrier or other source for the same service, the provider shall refund to the Department within 60 days of receipt the amount paid by the Department, or the Department may recoup those funds.

E. (text unchanged)

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

Subtitle 18 HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

10.18.08 HIV Counseling and Testing Procedures

Authority: Health-General Article, §§18-102, 18-201.1, 18-205, 18-334, 18-336—18-338, and 20-102, Annotated Code of Maryland

Notice of Proposed Action

[15-062-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.03—.05** under **COMAR 10.18.08 HIV Counseling and Testing Procedures**.

Statement of Purpose

The purpose of this action is to update the approval process for designation for anonymous and confidential HIV testing sites so that the Baltimore City Health Department approves organizations' applications for sites that are located in Baltimore City (BCHD) and update outdated language. Previously the Department reviewed and approved all applications for designated anonymous and confidential HIV testing sites in the state. However, recently the Centers for Disease Control and Prevention (CDC) began to directly fund the BCHD for HIV prevention care services. In order for the BCHD to fulfill the duties required by the CDC, this proposal will give them the authority to approve designated anonymous and confidential HIV testing sites located within Baltimore City. The BCHD will also take responsibility for any agency who would like to provide HIV testing within Baltimore City limits. In addition, this proposal removes the name of the former AIDS Administration and replaces it with the Department which now has authority over AIDS health programs. As a result of authorizing the BCHD to have this new responsibility, this proposal will also update and streamline the appeal and hearing process so it more appropriately applies to the BCHD as an appropriate entity.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The economic impact of this proposal on the Department or the BCHD is indeterminable because the number of applications the Department expects to receive varies greatly. Further, the staff time needed to process these applications is minimal and can be absorbed with existing staff. Accordingly, this proposal will operationally impact the BCHD by an indeterminable amount as they will now be responsible for processing the applications for designated anonymous and confidential HIV testing sites in Baltimore City.

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

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

A. and C. Currently, the Department receives only 1-2 applications for designating anonymous or confidential HIV testing sites for Baltimore City per year. The amount of staff time needed to process an application varies, but overall the staff time required is minimal. Application processing time can vary from less than one day to short, intermittent periods of time over several weeks. Because the number of applications that will be received cannot be predicted, the economic impact is indeterminable. Further, the time spent processing 1-2 applications a year by the Department is negligible and is not expected to impact staff. Once responsibility for Baltimore City applicants is shifted to the BCHD, it is anticipated that the BCHD staff time needed to process 1-2 applications per year will

also be negligible and can likely be absorbed by existing resources.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.03 Requirements for Designated Anonymous Counseling and Testing Sites.

A. A community based organization or other *similar* agency shall seek approval from **[**the AIDS Administration**]** *an appropriate entity* to become a designated anonymous testing site, *as follows:*

(1) Community based organizations or other similar agencies providing services within Baltimore City shall seek approval from the Baltimore City Health Department; and

(2) Community based organizations or other similar agencies providing services outside of Baltimore City shall seek approval from the Department.

B. A community based organization or *other similar* agency that seeks approval to become a designated anonymous testing site shall submit a written request to the **[**AIDS Administration that**]** *appropriate entity, which* includes:

(1)—(2) (text unchanged)

(3) The availability of on-site services and **[**in-house**]** referrals offered to **[**clients**]** *individuals*;

(4)—(5) (text unchanged)

(6) **[**The criteria, if**]** *If* applicable, *the criteria* for accepting individuals **[**as clients**]**;

(7) (text unchanged)

(8) Whether confidential HIV counseling and testing **[**will**]** *may* be offered at the site;

(9)—(11) (text unchanged)

(12) Documentation of training by all HIV counselors. *Training may be* accomplished by:

(a) Completion of **[**an AIDS Administration**]** *a HIV Counseling and Testing Skills* Level I HIV counselor *training* program *approved by the Department*; or

(b) Completion **[**in**]** *of* a similar skills training course that adheres to current Centers for Disease Control and Prevention guidelines;

(13) Implementation of an HIV counseling and testing protocol that:

(a) Ensures compliance with **[**the**]** *current* Centers for Disease Control and Prevention HIV counseling, testing, and referral standards and guidelines;

(b) (text unchanged)

(c) Describes record keeping procedures to separate records of an anonymous test from a record with **[**a client**]** *an individual's* name;

(d) Describes procedures to maintain *the* security **[**of files and confidentiality**]** of **[**client**]** *an individuals'* information; and

(e) (text unchanged)

(14) A statement of intent to report all HIV counseling and testing activity to the **[**AIDS Administration on the form**]** *appropriate entity in a manner that is* approved by **[**the Department**]** *that entity*.

C. The Department *and the Baltimore City Health Department* shall:

(1)—(2) (text unchanged)

.04 Requirements for Designated Confidential Counseling and Testing Sites.

A. A community based organization or other *similar* agency shall seek approval from **[**the AIDS Administration**]** *an appropriate entity* to become a designated confidential testing site, *as follows:*

(1) Community based organizations or other similar agencies providing services within Baltimore City shall seek approval from the Baltimore City Health Department; and

(2) Community based organizations or other similar agencies providing services outside of Baltimore City shall seek approval from the Department.

B. A community based organization or *other similar* agency that seeks approval to become a designated confidential testing site shall submit a written request to the **[**AIDS Administration that**]** *appropriate entity, which* includes:

(1)—(2) (text unchanged)

(3) The availability of on-site services and **[**in-house**]** referrals offered to **[**clients**]** *individuals*;

(4) The method for providing referrals to **[**clients**]** *individuals*;

(5) (text unchanged)

(6) The criteria, if applicable, for accepting individuals **[**as clients**]**;

(7)—(10) (text unchanged)

(11) Documentation of training by all HIV counselors *which may be* accomplished by *completion of a*:

(a) **[**Completion of an AIDS Administration**]** *HIV Counseling and Testing Skills* Level I HIV counselor *training* program *approved by the Department*; or

(b) **[**Completion in a similar**]** *Similar* skills training course that adheres to current Centers for Disease Control and Prevention guidelines;

(12) Implementation of an HIV counseling and testing protocol that:

(a) Ensures compliance with **[**the**]** *current* Centers for Disease Control and Prevention HIV counseling, testing, and referral standards and guidelines;

(b) Describes procedures to maintain *the* security **[**of files and confidentiality**]** of **[**client**]** *an individuals'* information; and

(c) (text unchanged)

(13) A statement of intent to report all HIV counseling and testing activity to the **[**AIDS Administration on the form**]** *appropriate entity in a manner that is* approved by **[**the Department**]** that entity.

C. The Department *and the Baltimore City Health Department* shall:

(1)—(2) (text unchanged)

.05 [Appeal and Hearing] ***Denial and Reconsideration*.**

A. An applicant under Regulation .03 or .04 of this chapter that has a written request denied by the **[**Department may request a hearing to appeal the decision to the Director of the AIDS Administration.**]** *appropriate entity may request reconsideration of the decision:*

(1) By submitting the request in writing to the appropriate entity; and

(2) Within 30 days of the date postmarked on the notice of denial.

[B. If an applicant requests a hearing, the applicant shall make the request:

(1) In writing to the Director of the AIDS Administration; and

(2) Within 30 days of the date postmarked on the notice of denial.**]**

[C.**]** *B.* If an applicant requests a **[**hearing**]** *reconsideration* according to **[**§B**]** *§A* of this regulation, the **[**Director of the AIDS Administration, or the Director's designee,**]** *appropriate entity* shall:

(1) **[**Hold a hearing to review the denial**]** *Review the request for reconsideration and any supplemental documentation submitted by the applicant* within 45 days of the postmarked date on the letter requesting **[**a hearing**]** *reconsideration*; and

(2) (text unchanged)

[D.**]**—**[**E.**]** (proposed for repeal)

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

Subtitle 19 DANGEROUS DEVICES AND SUBSTANCES

10.19.03 Controlled Dangerous Substances

Authority: Criminal Law Article, §§5-102(b), 5-203, and 5-301(a)(2), Annotated Code of Maryland

Notice of Proposed Action

[15-075-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.03** under **COMAR 10.19.03 Controlled Dangerous Substances**.

Statement of Purpose

The purpose of this action is to add supplemental requirements to the application process for CDS registration certificates. The proposed action will require applicants who are authorized to prescribe prescription drugs under the Health Occupations Article to:

(1) Complete a Department approved education module on substance use disorders treatment and resources; and

(2) Register with the Prescription Drug Monitoring Program.

Background Information:

Many states across the country, including Maryland, have seen a rising number of deaths caused by alcohol and drug overdoses in recent years. Most recently, in 2013, a total of 858 drug and alcohol-related intoxication deaths occurred in Maryland. Opioids have consistently comprised the majority of these overdose related deaths. The rise in opioid related deaths has created an urgent and growing public health problem. Governor O'Malley responded to this threat by establishing it as one of his strategic goals to reduce overdose deaths by 20 percent by the end of 2015.

A critical part of the state-wide response to reducing opioid overdose deaths is through education of health care practitioners. Health care practitioners play an important role in stemming the opioid substance abuse epidemic because of their access to patients and ability to prescribe controlled dangerous substances. To that end, the Division of Drug Control (DDC) is proposing amendments to the existing Controlled Dangerous Substance (CDS) regulations (COMAR 10.19.03.03).

The proposed action will require applicants who are authorized to prescribe prescription drugs under the Health Occupations Article to:

(1) complete a Department approved education module on substance use disorders treatment and resources; and

(2) register with the Prescription Drug Monitoring Program (PDMP).

The reason for (1) is so that providers can help Marylanders facing addiction to receive needed help. The justification for (2) is so that providers can take advantage of available data on where patients may be receiving other prescriptions in order to better serve the patients and avoid misuse and diversion.

In advance of this proposal, DDC solicited feedback for the proposed regulations from leading stakeholders. Three total responses were submitted with two substantive categories of comments from the Maryland Community Health System (MCHS), Maryland State Medical Society (MedChi), and Dr. Marcia Wolf (Prescription Drug Monitoring Program Technical Advisory Committee).

Issue: Commenters expressed concern that supplemental requirements to the CDS permit application/renewal would further result in delays to CDS registration issuance.

Response: DDC recognizes provider concerns with respect to CDS delays. The revised proposal will not implement the new requirement until the Secretary determines that DDC has implemented an effective web-based CDS registration system.

Issue: Commenters questioned whether the Department has the requisite legal authority to add requirements for PDMP registration and substance abuse and treatment education module.

Response: The Office of the Attorney General has opined that the DDC has legal authority to add the proposed requirements. Section 5-203 of the Criminal Law Article authorizes the Department to adopt regulations to implement Title 5 of the Criminal Law Article, and section 5-301(a)(2) requires the Department to adopt regulations regarding registration for, among others, dispensers of CDS. Furthermore, section 5-102(b) provides that Title 5's purpose includes the prevention of abuse of CDS. Read together, these sections authorize the Department to adopt requirements for registration that, in its view, will further the purpose of Title 5.

The PDMP statute, Health-General Article, Title 21, subtitle 2A does not preclude the proposed addition of a PDMP registration requirement to the other CDS registration requirements. That statute only prohibits a requirement that a dispenser use the PDMP. The Department has made the policy judgment that requiring dispensers of CDS to register for the PDMP will encourage use and thus further the purpose of Title 5 to prevent abuse of CDS.

Internal Issue: The PDMP program currently does not have sufficient portal capacity to register a high volume of users.

Response: The public health objectives of the proposed regulations require the PDMP program to be capable of efficiently registering the 34,500 impacted healthcare practitioners. The revised proposal will not implement the new requirement until the Secretary determines that the PDMP program is capable of handling an increased volume of registrations.

In summary, the DDC expects to continue serving a critical function to the State of Maryland. DDC not only issues CDS permits, but also has the authority to inspect all CDS permit holders to ensure statutory and regulatory compliance. Given the scope of CDS authority, DDC has played a crucial role in the prescription drug abuse epidemic and collaborates extensively with professional boards to ensure appropriate disciplinary actions are enforceable. During implementation of these regulations, DDC plans to continue an interchange of information with stakeholders to ensure DDC processes are modified to reduce the administrative burden of these requirements.

Comparison to Federal Standards

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

The proposed amendments were devised in response to Executive Order 01.01.2014.12 which was signed by Governor Martin O'Malley on June 27, 2014. The intent of the Executive Order is to reduce deaths by medication overdose and to implement initiatives related to overdose prevention. In support of this Order, the

Department has proposed adding supplemental procedures to the application process for CDS registration certificates.

The proposed action will require CDS applicants to complete an education module on substance abuse disorders treatment and resources. Applicants will also be required to register with the Prescription Drug Monitoring Program. Although the proposed amendments are in alignment with the Governor's initiative to prevent the inappropriate use of opiates, both requirements are more stringent than the applicable federal standard.

The impetus of these amendments is so providers can better help Marylanders facing addiction to receive needed help. These amendments are further justified so that providers can have access to valuable data through the PDMP on where patients may be receiving other prescriptions in order to better serve the patients and avoid misuse and diversion.

(2) Benefit to the public health, safety or welfare, or the environment:

A critical part of the state-wide response to reducing opioid overdose deaths is through education of health care practitioners. Health care practitioners play an important role in stemming the opioid substance abuse epidemic because of their access to patients and ability to prescribe controlled dangerous substances.

(3) Analysis of additional burden or cost on the regulated person:

No costs will be incurred as a result of the proposed amended regulations. .

(4) Justification for the need for more restrictive standards:

The proposed amendment to implement an education module on substance abuse treatment and resources is designed to educate providers on current issues and provide valuable resources for patient care. Similarly, the proposed requirement to register with the Prescription Drug Monitoring Program will provide that health care practitioners have continuous access to prescription drug monitoring data in real-time, at the point-of-care, to screen for potential abuse and to more effectively manage patients who are prescribed CDS.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.03 Registration; Registration Certificate.

A. (text unchanged)

B. *Initial and Renewal* Application *Requirements*.

(1)—(5) (text unchanged)

[(6) The registration certificate shall be readily available to any agent or representative of the Secretary within the registered location.**]**

(6) Substance Abuse and Treatment Education Module.

(a) Ninety business days after the Secretary makes a written determination that the web-based CDS registration is operational, applicants who are authorized under the Health Occupations Article to prescribe prescription drugs shall complete a Department approved education module on substance use disorders treatment and resources as part of the CDS registration requirement.

(b) CDS registrants shall attest to the completion of a Department approved module on substance use disorders treatment and resources at the time of application.

(c) The Department may conduct audits to ensure compliance with attestation of the education module on substance use disorders treatment and resources.

(7) Prescription Drug Monitoring Program Registration.

(a) Ninety business days after the Secretary makes a written determination that the Prescription Drug Monitoring Program has sufficient technological capacity, applicants who are authorized under the Health Occupations Article to prescribe prescription drugs shall register with the Prescription Drug Monitoring Program as part of the CDS registration requirement.

(b) The Secretary has authority to waive the Prescription Drug Monitoring Program registration requirements for good cause.

(c) The Department may conduct audits to ensure compliance with the Prescription Drug Monitoring Program registration.

(8) The CDS registration certificate shall be readily available to any agent or representative of the Secretary within the registered location.

(9) The Secretary shall mail a renewal application or a notice to renew a registrant not less than 30 days before the expiration date shown on the certificate.

(10) An applicant applying for renewal of a CDS registration certificate may not be subject to the additional requirements of §B(6) and (7) of this regulation until the applicant's period for renewal occurs on or after the compliance date.

C.—D. (text unchanged)

E. Expiration **[**and Renewal**]**.

[(1)**]** A registration certificate expires on the date shown on the certificate.

[(2) The Secretary shall mail a renewal application or a notice to renew to a registrant not less than 30 days before the expiration date shown on the certificate.**]**

F.—G. (text unchanged)

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

Subtitle 27 BOARD OF NURSING

10.27.27 Practice of Clinical Nurse Specialist

Authority: Health Occupation Article, §§8-205(a)(1) and (4) and 8-302(b)(1)(iii) and (2)(ii), Annotated Code of Maryland

Notice of Proposed Action

[15-050-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.02** under **COMAR 10.27.27 Practice of Clinical Nurse Specialists**.

At this time, the Secretary of Health and Mental Hygiene is also withdrawing the amendments to Regulation **.02** under C**OMAR 10.27.27 Practice of Clinical Nurse Specialist** as proposed in 41:18 Md. R. 1022 (September 5, 2014).

This action was considered by the Maryland Board of Nursing at a public meeting held on November 18, 2014, notice of which was given by publication on the Board's website under Board News on October 1 and November 1, 2014.

Statement of Purpose

The purpose of this action is to repeal parts of Regulation .02 that conflict with the Nurse Practice Act. The sections being deleted

conflict with the Nurse Practice Act by establishing a deadline for individuals practicing as clinical nurse specialists to obtain a national certification and permits the Board on a case-by-case basis to certify clinical nurse specialists without a national certification.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.02 Certification.

A.—B. (text unchanged)

[C.**]**—**[**D.**]** (proposed for repeal)

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

Subtitle 34 BOARD OF PHARMACY

Notice of Proposed Action

[15-056-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulation **.02** under **COMAR 10.34.01 Disciplinary Proceedings**;

(2) Amend Regulations **.04** and **.05** under **COMAR 10.34.02 Examination for Licensure and Professional Experience Programs**;

(3) Amend Regulations **.01** and **.03 — .05** under **COMAR 10.34.06 Reporting Pharmacist's, Pharmacy Intern's, and Pharmacy Technician's Mailing Address and Location of Employment**;

(4) Amend Regulations **.01** and **.03** and adopt new Regulation **.04** under **COMAR 10.34.09 Fees**;

(5) Amend Regulations **.02 — .07** under **COMAR 10.34.10 Pharmacist, Pharmacy Intern, and Pharmacy Technician Code of Conduct**;

(6) Amend Regulations **.02 — .04** and **.09** and adopt new Regulation **.04-1** under **COMAR 10.34.11 Disciplinary Sanctions, Monetary Penalties, and Civil Fines**;

(7) Amend Regulation **.05** under **COMAR 10.34.34 Pharmacy Technicians**; and

(8) Adopt new Regulations **.01—.07** under a new chapter, **COMAR 10.34.38 Pharmacy Interns**.

This action was considered by the Board of Pharmacy at a public meeting held September 19, 2014, notice of which was given by publication on the Board of Pharmacy website, http://dhmh.maryland.gov/pharmacy/SitePages/Home.aspx, from August 22, 2014, through September 19, 2014, pursuant to the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to establish a new chapter, COMAR 10.34.38 Pharmacy Interns, to comply with statutory requirements as amended by SB 854 State Board of Pharmacy – Registered Pharmacy Interns, 2014. This chapter sets forth that a pharmacy intern is required to work under the direct supervision of a licensed pharmacist and that a licensed pharmacist is only allowed to supervise two pharmacy interns at one time. It allows for three categories of pharmacy interns:

(1) Students in pharmacy school seeking employment in a pharmacy;

(2) Individuals who have graduated from an Accreditation Council for Pharmacy Education (ACPE) accredited Doctor of Pharmacy program and have applied for licensure with the Board; or

(3) Individuals who have graduated from a foreign school of pharmacy, have established educational equivalency as determined by the Board, passed an examination of oral English approved by the Board, and working on completing 1,560 hours of work experience in a MD pharmacy.

The proposal includes functions that a pharmacy intern may not perform. The proposal sets forth that a pharmacy intern is required to submit to a criminal history records check upon application and provides for expiration and renewal of registered pharmacy interns.

The remaining chapters were amended to compliment and comply with the new registration category.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The registration fee for pharmacy interns is similar to those imposed on other licensees regulated by the Maryland Health Occupation Boards. The impact on the Maryland Board of Pharmacy is anticipated to be similarly minimal. The revenue accrued through the fee schedule will directly fund and support the required administration of the registration process. There is no economic impact on local government, other State agencies, or other professionals or industries, or the general public.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)	$45,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	**Magnitude**
D. On regulated industries or trade groups:	(-)	$45,000
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Indeterminable

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

A. Estimated 1,000 pharmacy interns will seek registration at the implementation of the program.
FY15 Estimated 1,000 applicants × $45 application fee = $45,000.

D. Individuals applying to be registered as pharmacy interns will be required to pay a fee of $45. There may be costs incurred by pharmacy permit holders if they voluntarily choose to pay the cost of registering and renewing their pharmacy interns.

F. There is a benefit to the public because registering pharmacy interns, who will practice pharmacy under direct supervision of a pharmacist, will help to alleviate the workload of pharmacists, enhance patient safety, and will allow for improve pharmacists' ability to provide direct patient care.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

10.34.01 Disciplinary Proceedings

Authority: Health Occupations Article, §§12-313, 12-315, [and] 12-6B-09, *and 12-6D-11*; State Government Article, §10-206; Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(27) (text unchanged)

(28) "Registrant" means the holder of a [pharmacy]*:*

(a) Pharmacy technician registration issued by the Board*; or*

(b) Pharmacy intern registration issued by the Board.

(29)—(34) (text unchanged)

10.34.02 Examination for Licensure and Professional Experience Programs

Authority: Health Occupations Article, §12-205, Annotated Code of Maryland

.04 Internship Program or Training Required.

An applicant shall complete one of the following as a prerequisite to Board licensure:

A. (text unchanged)

B. 1,560 hours of full-time training, *as a registered pharmacy intern* under the direct supervision of licensed pharmacists pursuant to Regulation .05 of this chapter *as an applicant who:*

(1) Has graduated from a foreign school of pharmacy; or

(2) Does not meet the requirements of §A of this regulation.

C. An applicant may receive credit for any of the 1,560 hours earned up to 10 months before the effective date of this regulation.

.05 Partial or Non-Pharmacy-School-Supervised Program of Internship.

A. Applicants may complete the requirement for internship training by having at least 1,560 hours of full-time training *as a registered pharmacy intern*, under the direct supervision of licensed pharmacists.

B.—C. (text unchanged)

D. If an approved school or college of pharmacy offers a partial fulfillment of internship requirements as a part of its curriculum, time spent in a program by an applicant may be accepted by the Board on an equivalent basis to replace a portion of the required 1,560-hour internship *pharmacy internship* training under this regulation.

10.34.06 Reporting Pharmacist's, *Pharmacy Intern's,* and Pharmacy Technician's Mailing Address and Location of Employment

Authority: Health Occupations Article, §12-205, Annotated Code of Maryland

.01 Scope.

[These regulations apply**]** *This chapter applies* to each pharmacist **[**and**]**, *pharmacy intern, and* pharmacy technician licensed or registered by the Maryland Board of Pharmacy.

.03 Mailing Address.

A. Each licensed pharmacist **[**and**]**, *pharmacy intern, and* registered pharmacy technician shall report to the Board the pharmacist's, *pharmacy intern's,* or pharmacy technician's current mailing address on the pharmacist's, *pharmacy intern's,* or pharmacy technician's biennial license or registration renewal form.

B. The mailing address **[**may**]***:*

(1) May be the pharmacist's residence address **[**or shall**]***;*

(2) Shall be the pharmacy *intern's residence address; or*

(3) Shall be the pharmacy technician's residence address.

[B.**]** *C.* Within 30 days of the date a pharmacist, *pharmacy intern,* or pharmacy technician changes the pharmacist's, *pharmacy intern's,* or pharmacy technician's mailing address, the pharmacist, *pharmacy intern,* or pharmacy technician shall notify the Board in writing of any change in the information in §A of this regulation.

.04 Place of Employment.

A. This regulation applies only to pharmacists, *pharmacy interns,* and pharmacy **[**technician's**]** *technicians* employed in Maryland.

B. Each licensed pharmacist, *registered pharmacy intern,* and registered pharmacy technician shall report to the Board the pharmacist's, *pharmacy intern's,* or pharmacy technician's place of employment on the **[**pharmacist's**]** *pharmacist, pharmacy intern,* or pharmacy **[**technician's**]** *technician* biennial license or registration renewal form. A pharmacist, *pharmacy intern,* or pharmacy technician employed at more than one location shall report the primary employment location at the time the renewal form is submitted to the Board.

C. Within 30 days of a change in the pharmacist's, *pharmacy intern's,* or pharmacy technician's primary employment location, the pharmacist, *pharmacy intern,* or pharmacy technician shall notify the Board in writing of any change in the information required by this regulation. If the pharmacist's, *pharmacy intern's,* or pharmacy technician's primary employment location changes and the pharmacist's, *pharmacy intern's,* or pharmacy technician's new primary employment location is owned by the same corporation, partnership, or individual owner, the pharmacist, *pharmacy intern,* or pharmacy technician is not required to report the change except when completing a biennial license or registration renewal form.

.05 Grounds for Disciplinary Action.

A. A pharmacist's failure to report the information required in Regulations .03 and .04 of this chapter or failure to provide the Board with complete, up-to-date, and accurate information shall constitute grounds for action under Health Occupations Article, **[**§12-313(b)(24)**]** *§12-313(b)(25)*, Annotated Code of Maryland, and may, in appropriate cases, constitute grounds for action under Health Occupations Article, **[**§12-313(b)(1), (6), or (7)**]** *§12-313(b)(1), (7), or (8)*, Annotated Code of Maryland.

B. A pharmacy technician's failure to report the information required in Regulations .03 and .04 of this chapter or failure to provide the Board with complete, up-to-date, and accurate information shall constitute grounds for action under Health Occupations Article, **[**§12-6B-09(23)**]** *§12-6B-09(25)*, Annotated Code of Maryland, and may, in appropriate cases, constitute grounds for action under Health Occupations Article, **[**§12-6B-09(2), (6), or (7)**]** *§12-6B-09(2), (7), or (8)*, Annotated Code of Maryland.

C. A pharmacy intern's failure to report the information required in Regulations .03 and .04 of this chapter or failure to provide the Board with complete, up-to-date, and accurate information:

(1) Shall constitute grounds for action under Health Occupations Article, §12-6D-11(18), Annotated Code of Maryland; and

(2) May, in appropriate cases, constitute grounds for action under Health Occupations Article, §12-6D-11(3), (7), or (8), Annotated Code of Maryland.

10.34.09 Fees

Authority: Health Occupations Article, §§12-205, 12-206, 12-302, 12-303, 12-305, 12-308, 12-310, 12-404, 12-407, 12-601, 12-6B-02, 12-6B-03, 12-6B-04, 12-6B-07, 12-6C-03, 12-6C-04, 12-6C-05, **[**and**]** 12-6C-06, *12-6D-05, 12-6D-06, and 12-6D-09*, Annotated Code of Maryland

.01 Scope.

This chapter governs all licensees, permit holders, *registrants*, or applicants for licenses or permits issued by the Board.

.03 Change of Fees.

Fees are subject to change by action of the Board of Pharmacy. Licensees, *registrants*, and applicants shall be notified of the change.

.04 Pharmacy Intern Fee.

A. In addition to the fees listed in Regulation .02 of this chapter, the following fees are established by the Board.

B. Pharmacy Intern Fee.

(1) Pharmacy intern registration fee — $45;

(2) Pharmacy intern renewal fee — $45.

10.34.10 Pharmacist, *Pharmacy Intern*, and Pharmacy Technician Code of Conduct

Authority: Health Occupations Article, §§1-212 and 12-205, Annotated Code of Maryland

.02 Compensation.

A pharmacy technician, *pharmacy intern*, or a pharmacist may not fraudulently seek or accept compensation for a pharmacy product or service not provided.

.03 Patient Privacy.

A. The pharmacy technician, **[**the**]** *pharmacy intern*, pharmacist, and **[**the**]** pharmacy permit holder shall ensure confidentiality in creating, storing, accessing, transferring, and disposing of a patient record.

B. A pharmacy technician, *pharmacy intern*, or **[**a**]** pharmacist may not disclose identifiable information contained in a patient's medical record:

(1)—(3) (text unchanged)

.04 Competence.

A pharmacy technician, *pharmacy intern*, or a pharmacist shall:

A. (text unchanged)

B. Provide a pharmaceutical service only within the scope of the pharmacy technician's, *pharmacy intern's*, or pharmacist's training and education.

.05 Duty to Report.

A. Except when the conduct in question includes drug or alcohol abuse or dependency, a pharmacy technician, *pharmacy intern*, or **[**a**]** pharmacist shall report to the Board:

(1) (text unchanged)

(2) Conduct by a pharmacy technician, *pharmacy intern*, or **[**a**]** pharmacist that deceives, defrauds, or harms the public; and

(3) (text unchanged)

B. A pharmacy technician, *pharmacy intern*, or **[**a**]** pharmacist shall report to the pharmacist rehabilitation committee, as defined in Health Occupations Article, §12-317, Annotated Code of Maryland, conduct by a pharmacist technician, *pharmacy intern*, or **[**a**]** pharmacist that involves drug or alcohol abuse or dependency.

.06 Discrimination, Harassment, and Sexual Misconduct.

A. In the practice of pharmacy, a pharmacy technician, *pharmacy intern*, or **[**a**]** pharmacist may not:

(1)—(2) (text unchanged)

B. Sexual Misconduct. A pharmacy technician, *pharmacy intern*, or **[**a**]** pharmacist may not:

(1)—(2) (text unchanged)

C. (text unchanged)

.07 Disposition and Return of a Prescription Drug or Device.

A. A pharmacist may accept the return of a properly labeled and properly sealed manufacturer's package or **[**an**]** individual unit dose of a drug or **[***a***]** device that the pharmacist determines to have been handled in a manner which preserves the strength, quality, purity, and identity of the drug or device during an interim period between the sale of the drug or device and its return to the pharmacy.

B. (text unchanged)

C. A pharmacy technician *or pharmacy intern* may not accept the return of prescription drugs or devices from a patient.

10.34.11 Disciplinary Sanctions, Monetary Penalties, and Civil Fines

Authority: Health Occupations Article, §§1-606, 12-313, 12-314, 12-409, 12-410, 12-601, 12-6B-09, 12-6B-10, 12-6C-11, *12-6D-11, 12-6D-12*, and 12-707, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(6) (text unchanged)

(7) "Registration" means, unless the context requires otherwise, a registration issued by the Board to *practice pharmacy as a registered pharmacy intern under the direct supervision of a licensed pharmacist or* perform delegated pharmacy acts *as a registered pharmacy technician* under the direct supervision of a licensed pharmacist.

(8)—(9) (text unchanged)

.03 Imposition of Disciplinary Sanctions or Monetary Penalties Generally.

A. After a hearing pursuant to Health Occupations Article, §12-315, 12-601, **[**or**]** 12-6B-09, *or 12-6D-11*, Annotated Code of Maryland, the Board may impose a penalty against a pharmacy technician, *pharmacy intern*, pharmacist, or wholesale distributor permit holder pursuant to Health Occupations Article, §12-314, 12-6B-10, **[**or**]** 12-6C-11, *or 12-6D-12*, Annotated Code of Maryland, instead of or in addition to:

(1)—(4) (text unchanged)

B.—D. (text unchanged)

.04 Guidelines for Imposition of Disciplinary Sanctions or Monetary Penalties on Pharmacists.

A. Subject to the provisions of this chapter, the Board may impose the following sanctions and, if appropriate, penalties for violations of the Act and its regulations according to the minimum and maximum sanctions and penalties set forth in the following categories:

Violation		Minimum Sanction	Maximum Sanction	Minimum Penalty	Maximum Penalty
(1)—(3)	(text unchanged)				
(4)	Failure to **[**provide supervision**]** *appropriately supervise a pharmacy intern or pharmacy technician*	Reprimand	Probation for 3 years	$250	$5,000
(5)—(23)	(text unchanged)				

B.—D. (text unchanged)

.04-1 Guidelines for Imposition of Disciplinary Sanctions or Monetary Penalties on Pharmacy Interns.

A. Subject to the provisions of this chapter, the Board may impose the following sanctions and, if appropriate, penalties for violations of the Act and its regulations according to the minimum and maximum sanctions and penalties set forth in the following categories:

	Violation	*Minimum Sanction*	*Maximum Sanction*	*Minimum Penalty*	*Maximum Penalty*
(1)	*False application or registration*	*Probation for 1 year*	*Denial of registration application or revocation*	*$50*	*$2,500*
(2)	*Performing an act restricted to a licensed pharmacist*	*Reprimand*	*Revocation*	*$50*	*$2,500*
(3)	*Practicing pharmacy without appropriate supervision*	*Probation for 1 year*	*Revocation*	*$50*	*$2,500*
(4)	*Aiding an unauthorized individual to practice pharmacy*	*Reprimand*	*Revocation*	*$50*	*$2,500*
(5)	*Providing professional services while under the influence of alcohol or drugs*	*Probation for 6 months*	*Revocation*	*$250*	*$2,500*
(6)	*Knowingly aids a pharmacist in dispensing any drug, device, or diagnostic for which a prescription is required without a prescription*	*Reprimand*	*Revocation*	*$100*	*$2,500*
(7)	*Convicted of, or pled guilty to, a felony or crime of moral turpitude*	*Probation for 1 year*	*Revocation*	*$500*	*$2,500*
(8)	*Reciprocal discipline*	*Reprimand*	*Revocation*	*$250*	*$2,500*
(9)	*Physical or mental incompetence*	*Probation for 1 year*	*Revocation*	*NA*	*NA*
(10)	*Confidentiality violation*	*Probation for 1 year*	*Revocation*	*$500*	*$2,500*
(11)	*Diversion*	*Active suspension for 1 year*	*Revocation*	*$1,000*	*$2,500*
(12)	*Professional incompetence*	*Reprimand*	*Revocation*	*$100*	*$2,500*
(13)	*Sexual misconduct*	*Active suspension for 1 year*	*Revocation*	*$1,000*	*$2,500*

(14)	*Failure to cooperate in an investigation of the Board or the Division of Drug Control*	*Reprimand*	*Revocation*	*$50*	*$2,500*
(15)	*Failure to comply with an order of the Board*	*Probation for 1 year*	*Revocation*	*$50*	*$2,500*
(16)	*Other violation of the Act not specifically enumerated in this chapter*	*Reprimand*	*Revocation*	*$50*	*$2,500*

B. If a registrant is found in violation of more than one category enumerated in this regulation, the category or categories containing the highest maximum sanction and penalty shall control.

C. A departure from the guidelines set forth in this regulation, on its own, is not grounds for any hearing or appeal of a Board action.

.09 Civil Fines to Pharmacists, Pharmacy Technicians, *Pharmacy Interns,* and Pharmacy Permit Holders.

A. (text unchanged)

B. Working on an Expired Registration. The Board may assess a civil fine against a pharmacy technician *or pharmacy intern* who works on an expired registration in the amount of $25 per month of practice past the expiration date of the registration, up to a maximum fine of $250.

C. (text unchanged)

D. Practicing or Operating Without a License, Registration, or Pharmacy Permit.

(1) (text unchanged)

(2) The Board may assess a civil fine of no less than $250 and no more than $50,000 against an individual who works as an unregistered pharmacy technician *or unregistered pharmacy intern*.

(3) (text unchanged)

10.34.34 Pharmacy Technicians

Authority: Health-Occupations Article, §§12-205, 12-206, 12-315—12-317, 12-319, 12-320, 12-403, 12-505, 12-707, and 12-6B-01—12-6B-14, Annotated Code of Maryland

.05 Pharmacy Students.

[A.**]** Pharmacy students who are practicing in a pharmacy as part of a school of pharmacy sanctioned experiential learning rotation are not subject to the registration requirements of Regulation .04 of the chapter.

[B.**]**—**[**D.**]** (proposed for repeal)

10.34.38 Pharmacy Interns

Authority: Health-Occupations Article, §§12-205, 12-206, 12-301, 12-315—12-317, 12-319, 12-320, 12-505, 12-6D-01—12-6D-15, and 12-707, Annotated Code of Maryland

.01 Scope.

A. This chapter applies to applicants for registration as pharmacy interns and to registered pharmacy interns.

B. This chapter does not apply to pharmacy students:

(1) In a school of pharmacy sanctioned experiential learning program; or

(2) Registered as pharmacy technicians with the Board performing delegated pharmacy acts.

C. This chapter applies to individuals functioning as a pharmacy intern regardless of whether they are paid.

.02 Definitions.

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

B. Terms Defined.

(1) "Board" means the State Board of Pharmacy.

(2) "Direct supervision" means that a licensed pharmacist is physically available, notwithstanding appropriate breaks, on-site and in the prescription area or in an area where pharmacy services are provided to supervise the practice of pharmacy and delegated pharmacy acts.

(3) "Pharmacy student" means an individual who is enrolled as a student in a school or college of pharmacy:

(a) Accredited by the Accreditation Council for Pharmacy Education; or

(b) Having precandidate or candidate status by the Accreditation Council for Pharmacy Education.

(4) "Registered pharmacy intern" means an individual who is registered with the Board to practice pharmacy under the direct supervision of a pharmacist.

(5) "Registration" means in this chapter, unless the context requires otherwise, a registration issued by the Board to practice pharmacy under the direct supervision of a licensed pharmacist.

(6) "Supervision" means reviewing the work, guiding and directing the activities, and monitoring the performance of an individual.

.03 Prohibited Pharmacy Acts.

A registered pharmacy intern may not:

A. Delegate a pharmacy act;

B. Perform a final verification of a prescription drug or device before dispensing;

C. Perform any act that has not been authorized by the supervising pharmacist;

D. Represent themselves as a pharmacist;

E. Dispense prescription medications when the pharmacist is not in the pharmacy;

F. Be present in the pharmacy when the pharmacist is not physically available onsite;

G. Act within the parameters of a therapy management contract as provided under Health Occupations Article, Subtitle 6A, Annotated Code of Maryland;

H. Independently compound prescriptions; or

I. Accept the return of prescription drugs or devices directly from a patient.

.04 General Requirements.

A. Each registered pharmacy intern shall:

(1) Display the pharmacy intern's registration in the office or place of business in which the pharmacy intern is practicing pharmacy under the direct supervision of a licensed pharmacist; or

(2) Have the registration on the pharmacy intern's person available for viewing.

B. When practicing pharmacy under the direct supervision of a licensed pharmacist, the registered pharmacy intern shall wear identification that conspicuously identifies the registered pharmacy intern as a registered pharmacy intern.

C. When performing tasks in the prescription area, a pharmacy intern shall maintain proper:

(1) Sanitation;

(2) Hygiene;

(3) Biohazard precautions; and

(4) Infection control.

D. A pharmacy intern, who has obtained a registration as an actively enrolled student, shall immediately notify the Board if the pharmacy intern's enrollment as a student has been revoked, suspended, terminated, or otherwise discontinued.

.05 Limitation on Supervision.

A licensed pharmacist may not directly supervise more than two registered pharmacy interns at one time.

.06 Registration Requirements.

A. An applicant shall be an individual who:

(1) Is currently enrolled and has completed 1 year of professional pharmacy education in a doctor of pharmacy program:

(a) Accredited by the Accreditation Council for Pharmacy Education; or

(b) Having precandidate or candidate status by the Accreditation Council for Pharmacy Education;

(2) Has graduated from a doctor of pharmacy program accredited by the Accreditation Council for Pharmacy Education; or

(3) Is a graduate of a foreign school of pharmacy who:

(a) Has established educational equivalency as approved by the Board; and

(b) Has passed an examination of oral English approved by the Board.

B. An applicant identified in §A of this regulation shall:

(1) Submit to the Board a signed completed application on a form provided by the Board;

(2) Pay a fee as set forth in COMAR 10.34.09;

(3) Submit a request for a State Criminal History Records check; and

(4) Be of good moral character.

C. The Board may not approve an application until the State Criminal History Records Check is completed.

D. The Board of Pharmacy shall provide the pharmacy intern with a registration card and pocket identification card upon initial registration and renewal.

.07 Renewal Requirements.

A. The pharmacy intern's registration shall expire on the last day of the birth month following 1 year after initial registration.

B. Except as provided in §C of this regulation, the Board shall send to each registrant, at least 1 month before a registration expires, a renewal notice by first–class mail to the last known address of the registrant.

C. If requested by a registrant, the Board shall send to the registrant, at least two times within the month before a registration expires, a renewal notice by electronic means to the last known electronic address of the registrant.

D. If a renewal notice sent by electronic means under §C of this regulation is returned to the Board as undeliverable, the Board shall send to the registrant a renewal notice by first-class mail to the last known address of the registrant.

E. A renewal notice sent under this regulation shall state:

(1) The date on which the current registration expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the registration expires; and

(3) The amount of the renewal fee.

F. A registered pharmacy intern who qualifies for registration under Regulation .06A(1) of this chapter may renew the registration one time if the registered pharmacy intern is:

(1) Otherwise entitled to be registered as a pharmacy intern;

(2) Submits to the Board a renewal application on the form that the Board requires; and

(3) Pays to the Board a renewal fee set by the Board.

G. A registered pharmacy intern who qualifies for registration under Regulation .06A(2) and (3) of this chapter may not renew the registration.

H. The registration of a pharmacy intern registered under this chapter is void when the registered pharmacy intern becomes a licensed pharmacist.

I. The Board shall renew the registration of each pharmacy intern who meets the requirements of this chapter.

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

Subtitle 43 BOARD OF CHIROPRACTIC AND MASSAGE THERAPY EXAMINERS

Notice of Proposed Action

[15-035-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulation **.05** under **COMAR 10.43.01 Chiropractic—General Regulations**;

(2) Amend Regulation **.03** under **COMAR 10.43.04 Licensure by Credentials for Chiropractors**;

(3) Amend Regulations **.07** and **.09** and adopt new Regulation **.14** under **COMAR 10.43.07 Chiropractic Assistants**;

(4) Amend Regulation **.03** under **COMAR 10.43.12 Chiropractic—Licensure Examination**;

(5) Amend Regulations **.02—.07**, **.09**, and **.11** under **COMAR 10.43.17 Massage Therapy—General Regulations**;

(6) Amend Regulations **.02—.04** and **.07** under **COMAR 10.43.18 Massage Therapy—Code of Ethics**;

(7) Amend Regulations **.02** and **.03** under **COMAR 10.43.19 Massage Therapy—Advertising**; and

(8) Amend Regulation **.04** under **COMAR 10.43.20 Massage Therapy—Continuing Education Requirements**.

This action was considered at a public meeting on October 9, 2014, notice of which was given by publication on the Board's website at http://dhmh.maryland.gov/chiropractic/SitePages/Home.aspx, pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Require criminal history records checks of initial applicants for a license as a chiropractor, chiropractic assistant, massage therapist, or for registration as a massage practitioner;

(2) Require that licensees and registrants notify the Board of any change in address within a certain number of days after the change occurs;

(3) Require that applicants for licensure as a chiropractor or massage therapist obtain CPR certification at the Healthcare Provider level and that applicants for registration as a massage practitioner obtain certification in basic CPR;

(4) Prohibit the Board from issuing a license or registration without criminal history records check information for each applicant;

(5) Provide that a registered massage practitioner practices massage therapy in a setting that is not a health care setting;

(6) Provide that certain individuals do not have to be licensed by the Board to practice massage therapy or registered by the Board to practice massage therapy in a setting that is not a health care setting under certain circumstances;

(7) Require an applicant for a license to practice massage therapy to have at least 600 classroom hours of education in a massage therapy program and to provide documentation of completion of certain requirements;

(8) Require an applicant to be a registered massage practitioner to pass a certain examination and submit certain documentation to the Board;

(9) Require the Board to issue a duplicate license if an applicant does not receive their original license within 2 weeks of its issuance; and

(10) Require a program or institution seeking Board approval of continuing education course to submit certain documentation within 60 days before the starting date of the program or course.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This proposal will have an economic impact to licensees and registration holders of the Board, but only to the extent that they need the additional coursework that has been required by the statute. The proposal will also have an impact on applicants for licensure or registration since they would have to pay the cost of a criminal history records check. In either case, the Board cannot estimate the exact impact because it does not know how many individuals would need the additional coursework or would need a criminal history records check.

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

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

B. There will be an increase in funds coming to CJIS due to the additional individuals who will have to get criminal history records checks, but the Board cannot estimate how many individuals will apply for an initial license or registration.

D. There will be an economic impact for initial licensees and registrants who will have to pay the cost of the criminal history records check and who would need to pay for additional coursework in order to meet the new hourly requirements. The Board cannot estimate the additional cost because some academic programs have increased the required hours of education for their program and others have not yet.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

10.43.01 Chiropractic—General Regulations

Authority: Health Occupations Article, Title 3, Annotated Code of Maryland

.05 Licenses.

A.—E. (text unchanged)

F. **[**A license holder shall maintain a current, correct mailing address with the Board**]** *The license holder shall notify the Board of any change in the name or address of the license holder, in writing, within 60 days after the change occurs.*

G.—J. (text unchanged)

10.43.04 Licensure by Credentials for Chiropractors

Authority: Health Occupations Article, *§3–302.1 and* §3–305Annotated Code of Maryland

.03 Application Procedures.

A.—B. (text unchanged)

C. An applicant shall submit to the Board satisfactory evidence of having completed a State and national criminal history records check in accordance with Health Occupations Article, §3–302.1, Annotated Code of Maryland.

D. The Board may not issue a license or registration if the criminal history records information required under §C of this regulation has not been received.

10.43.07 Chiropractic Assistants

Authority: Health Occupations Article, §§3–205, *3–302.1*, and 3–404, Annotated Code of Maryland

.07 ***Chiropractic Assistant*** **Examinations** ***and Application for Registration*****.**

A.—B. (text unchanged)

C. The applicant shall:

(1) Pay to the Board an examination fee as set forth in COMAR 10.43.06; **[**and**]**

(2) Submit all fees, transcripts, and application documentation postmarked not later than 45 days before the examination date**[.]***; and*

(3) Submit satisfactory evidence of having completed a State and national criminal history records check in accordance with Health Occupations Article, §3–302.1, Annotated Code of Maryland.

D.—E. (text unchanged)

F. The Board may not issue a license or registration if the criminal history records information required under §C(3) of this regulation has not been received.

.09 Activities That May Be Performed by Chiropractic Applicants and Assistants Under Direct Supervision of a Supervising Chiropractor.

A chiropractic applicant or assistant may perform the following activities only under the direct supervision of a supervising chiropractor who is in the treatment area:

A.—G. (text unchanged)

H. Infrared, ultraviolet irradiation, non-laser light therapy, and **[**cold laser light therapy**]** *non-ablative therapeutic laser*;

I.—Q. (text unchanged)

.14 Notification of Change of Address.

A registered chiropractic assistant shall notify the Board of any change in the name or address of the chiropractic assistant, in writing, within 60 days after the change occurs.

10.43.12 Chiropractic—Licensure Examination

Authority: Health Occupations Article, §§3–205 and 3–302.1, Health Occupations Article

.03 Application for Examination and Licensure.

A. An individual is eligible to take the Maryland Board examination for licensure if the individual submits documentation, postmarked at least 45 days before the examination, verifying that the individual has:

(1)—(3) (text unchanged)

(4) Obtained certification in CPR at the Health Care Provider level;

[(4)**]** *(5)* (text unchanged)

[(6)**]** *(7)* Filed an application and paid the required application fee as specified in COMAR 10.43.06; **[**and**]**

[(7)**]** *(8)* Paid the required examination fee as specified in COMAR 10.43.06**[.]***; and*

(9) Completed a State and national criminal history records check in accordance with Health Occupations Article, §3–302.1, Annotated Code of Maryland.

B.—E. (text unchanged)

F. The Board may not issue a license or registration if the criminal history records information required under §A(9) of this regulation has not been received.

10.43.17 Massage Therapy—General Regulations

Authority: Health Occupations Article, §§3*–205, 3–302.1*, 3–5A–01, 3–5A–02, *3–5A–04*, and 3–5A –06, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged).

(2) "Health care **[**facility**]** *setting*" has the meaning stated in Health-**[**General**]** *Occupations* Article, **[**§19-114(d)**]** *§3–5A–01(c)*, Annotated Code of Maryland.

(3)—(9) (text unchanged)

(10) "Registered massage practitioner" means an individual who is registered by the Board to practice **[**non-therapeutic**]** massage *therapy in a setting that is not a health care setting*.

(11) "Registration" means, unless the context requires otherwise, a document issued by the Board to practice **[**non-therapeutic**]** massage *therapy in a setting that is not a health care setting*.

.03 Licensure or Registration Required; Exceptions.

An individual shall be licensed by the Board in order to practice massage therapy, and shall be registered by the Board in order to practice **[**non-therapeutic**]** massage *therapy in a setting that is not a health care setting*, except for the following:

A. (text unchanged)

B. An individual who:

[(1) Has qualified to practice massage therapy in another state or country that has substantially similar requirements for authorization to practice massage therapy as determined by the Board;

(2) Is in Maryland for not more than 7 consecutive days, or a total of 30 days during a period of 1 calendar year; and

(3) Petitions for and receives approval from the Board**]**

(1) Practices massage therapy in a Board-approved, recognized jurisdiction with an active license or registration in good standing;

(2) Is seeking to practice in Maryland exclusively with a visiting organization for not more than 30 days per calendar year; and

(3) Submits a timely request by application in accordance with Board procedures;

C.—F. (text unchanged)

.04 Application for Licensure or Registration.

A. An applicant for a license **[**or registration**]** to practice massage therapy shall:

(1)—(6) (text unchanged)

(7) Have copies of official transcripts sent directly to the Board from the schools from which the applicant graduated that document completion of at least **[**500**]** *600* classroom hours in a massage therapy education program that is:

(a)—(b) (text unchanged)

(8) Provide **[**an official sealed transcript of satisfactory completion of at least 60 credit hours of education at an institution of higher education as defined in Education Article, §10-101, Annotated Code of Maryland, and approved by the Board and MHEC or comparable authority in the state in which the school is located**]** *documentation of having satisfactorily completed the requirements listed in §B of this regulation.*

(9) Provide documentation of current certification in CPR at the Healthcare Provider level; and

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

B. To comply with §A(8) of this regulation, an applicant for a license to practice massage therapy shall provide documentation of having satisfactorily completed:

(1) At least:

(a) 600 hours of education in a Board-approved program for the study of massage therapy that includes the following areas of content:

(i) Anatomy, physiology, and kinesiology;

(ii) Massage theory, techniques, and practice;

(iii) Contraindications to massage therapy; and

(iv) Professional ethics; and

(b) 60 credit hours of education at an institution of higher education as defined in the Education Article, §10–101, Annotated Code of Maryland, and as approved by the Board and MHEC of

which a minimum of 24 credit hours shall have been in basic and applied science courses related to health care; or

(2) At least:

(a) 60 credit hours of education at an institution of higher education as defined in the Education Article, §10–101, Annotated Code of Maryland, and as approved by MHEC; and

(b) 24 hours of advanced massage therapy continuing education as approved by the Board in basic and applied science courses related to health care, including, but not limited to, the following areas of study:

(i) Massage techniques, including Swedish massage and deep tissue massage;

(ii) Structure and function of the human body; and

(iii) Kinesiology;

[B.**]** *C.* To be a registered massage practitioner, an applicant shall:

(1)—(2) (text unchanged)

[(3) Satisfy the requirements set forth in §A(3)—(7) and (9) of this regulation;**]**

(3) Submit two recent 2 inch × 2 inch passport type photographs of the applicant;

(4) Provide evidence that the applicant is:

(a) Of good moral character; and

(b) 18 years old or older;

(5) Pass the Maryland Massage Therapy Jurisprudence Examination, which is administered by the Board, with a score of at least 75 percent;

(6) Have sent directly to the Board by the administering authority proof of having passed a Board-approved examination;

(7) Submit documentation of completion of at least 600 hours of education in a Board-approved program for the study of massage therapy that includes the following areas of content:

(a) Anatomy, physiology, and kinesiology;

(b) Massage theory, techniques, and practice;

(c) Contraindications to massage therapy; and

(d) Professional ethics;

(8) Provide documentation of current certification in basic CPR; have verification of status sent directly to the Board by the issuing state, if certified, licensed, or registered to practice massage therapy in another state; and

(9) Have verification of status sent directly to the Board by the issuing state, if certified, licensed, or registered to practice massage therapy in another state.

D. The Board may not issue a license or registration if the criminal history record information required under Health Occupations Article, §3–302.1, Annotated Code of Maryland, has not been received.

.05 Required *Massage Therapy* Education and Training.

A. Classroom Training.

(1) Of the minimum **[**500**]** *600* hours classroom training required in Regulation **[**.04A(7)**]** *.04A(8), B, and C(7)* of this chapter:

(a) (text unchanged)

(b) The remaining **[**400**]** *500* hours shall include a majority of hours in:

(i)—(viii) (text unchanged)

(2) Cardiopulmonary resuscitation (CPR) **[**and first aid**]** shall be included but do not count toward the **[**500**]** *600*-hour minimum.

(3) An applicant may attend more than one training institution, if the applicant graduates from a school requiring satisfactory completion of a minimum of **[**500**]** *600* classroom hours in massage therapy education.

(4) (text unchanged)

B. Education and Training in a Foreign Country.

(1) The Board may grant a license **[**to practice massage therapy**]** or **[**a**]** registration to practice **[**non-therapeutic**]** massage *therapy* to an applicant who completed an educational program in a foreign country if the applicant:

(a)—(b) (text unchanged)

(2)—(3) (text unchanged)

.06 Licensure.

A.—B. (text unchanged)

C. The Board may not issue a license or registration if the criminal history records information required under Health Occupations Article, §3–302.1, Annotated Code of Maryland, has not been received.

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

.07 Registration.

A.—B. (text unchanged)

C. The Board may not issue a license or registration if the criminal history records information required under Health Occupations Article, §3–302.1, Annotated Code of Maryland, has not been received.

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

.09 Reinstatement.

A.—B. (text unchanged)

C. The massage practitioner who fails to apply for registration renewal within 2 years after the expiration date of the registration shall meet the requirements in effect at the time of the request in order to be registered to practice **[**non-therapeutic**]** massage *therapy in a setting that is not a health care setting*.

.11 Duplicate Licenses and Registrations.

The Board shall issue a duplicate license or registration to the license or registration holder if:

A.—B. (text unchanged)

C. The license or registration holder does not receive the license or registration within **[**6**]** *2* weeks of issuance and the license or registration holder provides a notarized statement to the Board attesting to the nonreceipt of the license or registration within 30 days of the date the license or registration was issued by the Board.

10.43.18 Massage Therapy—Code of Ethics

Authority: Health Occupations Article, *§3–5A –01,* Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Non bona fide treatment" means when a license holder or registration holder treats or examines a client in a way that involves sexual contact, but there is no therapeutic reason for the procedure, or the procedure falls outside of reasonable massage therapy **[**or non-therapeutic massage practices**]**.

(3) "Registration holder" means an individual who is registered by the Board to practice **[**non-therapeutic**]** massage *therapy in a setting that is not a health care setting.*

(4)—(5) (text unchanged)

.03 Standards of Practice.

A. (text unchanged)

B. A license holder or registration holder who suffers from a physical, mental, or emotional impairment, including chemical abuse, which impacts the license holder's or registration holder's ability to practice massage therapy **[**or non-therapeutic massage**]**, shall proactively seek professional treatment and shall refrain from the practice of massage therapy **[**or non-therapeutic massage**]** until such

time as the impairment no longer exists or reasonable accommodations can be made.

C. A license holder or registration holder shall:

(1)—(5) (text unchanged)

(6) Practice massage therapy **[**or non-therapeutic massage**]** only as defined in the scope of practice set out in Health Occupations Article, §3-5A-01, Annotated Code of Maryland;

(7) (text unchanged)

(8) Report to the Board of Chiropractic and Massage Therapy Examiners, or other appropriate authority, conduct in the practice of massage therapy that indicates a violation of:

(a)—(b) (text unchanged)

(c) Any other law, including but not limited to aiding or abetting the unauthorized practice of massage therapy **[**or non-therapeutic massage**]**; and

(9) (text unchanged)

D. A license holder or registration holder may not:

(1)—(3) (text unchanged)

(4) Perform massage therapy **[**or non-therapeutic massage**]** on a client if a contraindication against this treatment exists;

(5)—(6) (text unchanged)

.04 Relationship with Client.

A. A license holder or registration holder shall:

(1)—(7) (text unchanged)

(8) Accurately inform clients, other health care professionals, and the public of the limitations of massage therapy **[**and non-therapeutic massage**]**;

(9) Adequately assess the client to determine if contraindications against massage therapy **[**or non-therapeutic massage**]** exist and refer the client to an appropriate health care practitioner; and

(10) (text unchanged)

B. (text unchanged)

.07 Education and Training.

A. A license holder or registration holder shall:

(1)—(2) (text unchanged)

(3) Maintain a current license or registration to practice massage therapy **[**or non-therapeutic massage**]**.

B. (text unchanged)

10.43.19 Massage Therapy—Advertising

Authority: Health Occupations Article, §3–5A–01, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(4) "Registration holder" means an individual who is registered by the Board to practice **[**non-therapeutic**]** massage *therapy in a setting that is not a health care setting.*

.03 Advertising.

A.—F. (text unchanged)

G. An individual may not advertise that the individual practices massage therapy **[**or non-therapeutic massage**]** in Maryland if:

(1)—(3) (text unchanged)

H. (text unchanged)

10.43.20 Massage Therapy—Continuing Education Requirements

Authority: Health Occupations Article, §3–205, Annotated Code of Maryland

.04 Board Procedures.

A. A program or institution seeking Board approval shall submit the following in writing at least **[**90**]** *60* days before the starting date of the program or course:

(1)—(8) (text unchanged)

B.—D. (text unchanged)

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

Subtitle 62 NATALIE LAPRADE MEDICAL MARIJUANA COMMISSION

Notice of Proposed Action

[15-049-P]

The Secretary of Health and Mental Hygiene proposes to adopt under a new subtitle, **Subtitle 62 Natalie Laprade Medical Marijuana Commission**:

(1) New Regulations **.01** and **.02** under a new chapter, **COMAR 10.62.01 Definitions**;

(2) New Regulations **.01 — .03** under a new chapter, **COMAR 10.62.02 General Regulations**;

(3) New Regulations **.01 — .07** under a new chapter, **COMAR 10.62.03 Certifying Physicians**;

(4) New Regulations **.01 — .06** under a new chapter, **COMAR 10.62.04 New Condition Approval Process**;

(5) New Regulations **.01 — .04** under a new chapter, **COMAR 10.62.05 Patient and Caregiver Registry and Identification Cards**;

(6) New Regulations **.01 —.10** under a new chapter, **COMAR 10.62.06 Medical Marijuana Grower License**;

(7) New Regulations **.01 —.09** under a new chapter, **COMAR 10.62.07 Medical Marijuana Grower Agents**;

(8) New Regulations **.01 —.08** under a new chapter, **COMAR 10.62.08 Medical Marijuana Grower Premises**;

(9) New Regulations **.01 —.05** under a new chapter, **COMAR 10.62.09 Medical Marijuana Growing Controls**;

(10) New Regulations **.01 —.08** under a new chapter, **COMAR 10.62.10 Quality Control by a Licensed Medical Marijuana Grower**;

(11) New Regulations **.01 —.05** under a new chapter, **COMAR 10.62.11 Complaints, Adverse Events, and Recall**;

(12) New Regulations **.01 —.08** under a new chapter, **COMAR 10.62.12 Inventory Control by Grower**;

(13) New Regulations **.01 —.03** under a new chapter, **COMAR 10.62.13 Dispensing of Medical Marijuana by a Licensed Grower**;

(14) New Regulations **.01 —.08** under a new chapter, **COMAR 10.62.14 Shipment of Products Containing Marijuana Between Licensees**;

(15) New Regulations **.01 —.11** under a new chapter, **COMAR 10.62.15 Licensed Dispensary and Licensed Processing Dispensary**;

(16) New Regulations **.01 —.08** under a new chapter, **COMAR 10.62.16 Medical Marijuana Concentrates and Medical Marijuana-Infused Products**;

(17) New Regulation **.01** under a new chapter, **COMAR 10.62.17 Licensed Dispensary Clinical Director**;

(18) New Regulations **.01 —.08** under a new chapter, **COMAR 10.62.18 Registered Dispensary Agents**;

(19) New Regulations **.01 —.09** under a new chapter, **COMAR 10.62.19 Licensed Dispensary and Licensed Processing Dispensary Premises**;

(20) New Regulations **.01 —.05** under a new chapter, **COMAR 10.62.20 Licensed Dispensary and Licensed Processing Dispensary Operations**;

(21) New Regulations **.01** and **.02** under a new chapter, **COMAR 10.62.21 Licensed Dispensary Packaging and Labeling for Distribution**;

(22) New Regulations **.01 —.08** under a new chapter, **COMAR 10.62.22 Dispensing Medical Marijuana**;

(23) New Regulations **.01 —.03** under a new chapter, **COMAR 10.62.23 Records**;

(24) New Regulations **.01 —.08** under a new chapter, **COMAR 10.62.24 Inspection**;

(25) New Regulations **.01 —.03** under a new chapter, **COMAR 10.62.25 Discipline and Enforcement**;

(26) New Regulations **.01 —.13** under a new chapter, **COMAR 10.62.26 Academic Medical Center Program Application Contents**;

(27) New Regulations **.01 —.06** under a new chapter, **COMAR 10.62.27 Academic Medical Center Program Application Procedure**; and

(28) New Regulation **.01** under a new chapter, **COMAR 10.62.28 Fee Schedule**.

This action was considered at a public meeting on November 13, 2014, notice of which was given on the Commission's website at http://dhmh.maryland.gov/sitepages/medical%20marijuana%20commission.aspx, pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Adopt regulations to establish the Natalie LaPrade Medical Marijuana Commission;

(2) Establish standards for qualifying patients to become eligible to obtain medical marijuana;

(3) Establish requirements for licensed physicians in the State to be certified to recommend medical marijuana;

(4) Establish requirements for grower operations and dispensaries to be licensed by the Commission;

(5) Establish requirements for grower agents and dispensary agents to be registered with the Commission;

(6) Establish requirements for individuals to become caregivers to qualifying patients;

(7) Establish application processes for applicants to be certifying physicians, qualifying patients or caregivers, licensed growers, licensed dispensaries, registered grower agents, or registered dispensary agents;

(8) Establish structural, security, procedural, and staffing requirements for licensed dispensaries and licensed growers;

(9) Establish growing controls for licensed growers;

(10) Establish a process for approving qualifying patients who suffer from new conditions not specified in the statute;

(11) Establish a procedure for transporting medical marijuana products between licensees;

(12) Establish inventory control standards for licensed growers;

(13) Authorize the Commission to inspect licensed growers, licensed dispensaries, and Academic Medical Center Compassionate Use Programs;

(14) Establish controls for processing and labeling medical marijuana concentrates and medical marijuana-infused products;

(15) Set standards for laboratory testing of medical marijuana, medical marijuana concentrates and medical marijuana-infused products for quality control;

(16) Set standards for licensed dispensary packaging and labeling;

(17) Authorize the Commission to take certain disciplinary actions against certain licensees for certain offenses;

(18) Establish the Academic Medical Center Compassionate Use Program application procedure, application requirements, and renewal requirements

(19) Establish certain renewal procedures for certifying physicians, qualifying patients, licensed growers, and licensed dispensaries; and

(20) Establish certain fees to fund the operations of the Commission.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Because these regulations are implementing a new program and bringing a new industry to the State, the Commission cannot estimate the economic impact to the State, except to say that demand for certain services will increase, such as construction, security, architectural, legal, laboratory testing, and secure transport. The new industry will also increase jobs in the areas in which medical marijuana facilities choose to locate.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E-)	$2,500,000 — $3,000,000
B. On other State agencies:	(E-)	Indeterminable
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Indeterminable

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

A. The Commission estimates that $2.5 – 3 million is needed to fund the operations of the Commission. The Commission based these figures on a number of items including indirect costs, salaries, IT costs, rent for office space, office supplies, shared services employees, telephone, postage, mileage reimbursement for Commissioners, investigators, and inspectors, the cost of inspections and investigations, laboratory costs for testing, consultants for vetting applications, costs for an Assistant Attorney General, Office of Administrative Hearings, travel and hotel stays for investigators and inspectors, printing costs, office equipment and maintenance, software maintenance, and training programs.

B. The Commission cannot estimate the costs to other agencies at this time, such as for laboratory testing for OHCQ and CJIS for criminal history records checks.

D. The Commission cannot estimate the cost to regulated industries because this is a new program and industry in the State.

F. The Commission cannot estimate the impact to the public because it cannot predict the number of qualifying patients or caregivers who will apply for medical marijuana or the impact of the program generally on the public.

Economic Impact on Small Businesses

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

As this will be a new and growing industry in the State, it is expected that there will be a positive impact for small businesses through the creation of jobs in the industry. As the program starts, there will be a cost to small businesses for licensing, security, construction, and other startup costs. The Commission cannot estimate the exact impact at this time.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

10.62.01 Definitions

Authority: Health General Article, §§13-3301—13-3303, Annotated Code of Maryland

.01 Scope.

This chapter defines terms used in COMAR 10.62.02 – 10.62.28.

.02 Definitions.

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

B. Terms Defined.

(1) "Academic medical center" means a hospital that:

(a) Operates a medical residency program for physicians; and

(b) Conducts research that is overseen by the federal Department of Health and Human Services and involves human subjects.

(2) "Association" means employment or volunteer status at a licensed grower or licensed dispensary.

(3) Batch.

(a) "Batch" means all of the plants of the same variety of medical marijuana that have been:

(i) Grown, harvested, and processed together; and

(ii) Exposed to the same conditions throughout cultivation and processing.

(b) "Batch" includes all of the processed materials produced from those plants.

(4) "Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and a patient in which the physician has:

(a) Reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient;

(b) Created and maintained records of the patient's condition in accord with medically accepted standards; and

(c) A reasonable expectation that the physician will monitor the progress of the patient while using medical marijuana and take any medically indicated action:

(i) To provide follow-up care to the patient;

(ii) Regarding the efficacy of the use of medical marijuana as a treatment of the patient's severe or debilitating medical condition; and

(iii) Regarding any adverse event associated with the use of medical marijuana.

(5) Caregiver.

(a) "Caregiver" means an individual designated by a patient who has agreed to assist with a qualifying patient's medical use of marijuana.

(b) "Caregiver" includes, for a qualifying patient younger than 18 years old, a parent, or legal guardian.

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

(7) "Certifying physician" means a physician, as defined in Health Occupations Article, §14-101(i), Annotated Code of Maryland, who is approved by the Commission to make marijuana available to patients for medical use in accordance with this subtitle.

(8) "Commission" means the Natalie M. LaPrade Medical Marijuana Commission.

(9) "Criminal history record information" has the meaning provided by Criminal Procedure Article, §10-201(d)(3), Annotated Code of Maryland.

(10) "Dispensary agent" means an owner, a member, an employee, a volunteer, an officer or a director of a licensed dispensary.

(11) "Finished medical marijuana product" means a medical marijuana concentrate or a medical marijuana-infused product packaged and labeled for release to a qualifying patient.

(12) "Fund" means the Natalie M. LaPrade Medical Marijuana Commission Fund.

(13) "Independent testing laboratory" means a laboratory that is:

(a) Accredited as operating to ISO standard 17025 by an accreditation body:

(i) Operating in accordance with the International Organization for Standardization (ISO) standard ISO/IEC 17011; and

(ii) That is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA); and

(b) Licensed by the Department of Health and Mental Hygiene.

(14) "Law enforcement agency" means a governmental police force, sheriff's office, or security force or law enforcement organization of the State, a county, or a municipal corporation that by statute, ordinance, or common law is authorized to enforce the general criminal laws of the State.

(15) "Licensed dispensary" means a dispensary licensed by the Commission that acquires, possesses, repackages, processes, transfers, transports, sells, distributes, or dispenses, products containing marijuana, related supplies, related products including tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver.

(16) "Licensed grower" means an entity that:

(a) Cultivates, manufactures, processes, packages or dispenses medical marijuana, processes medical marijuana products; and

(b) Is licensed by the Commission to provide medical marijuana to a program, a qualifying patient, a caregiver or to a licensed dispensary.

(17) "Licensed premises" means the locations at which a licensed grower or licensed dispensary operates.

(18) "Licensed processing dispensary" means a licensed dispensary that has been approved to process medical marijuana concentrate or medical marijuana-infused products.

(19) "Lot" means all of a finished medical marijuana product that is uniform, that is intended to meet specifications, and that is manufactured, packaged, or labeled together during a specified time period according to a single lot record.

(20) "Medical marijuana concentrate" means a product derived from medical marijuana that is kief, hashish, bubble hash, oil, wax, or other product, produced by extracting cannabinoids from the plant through the use of:

(a) Propylene glycol;

(b) Glycerin;

(c) Water or ice;

(d) Butane;

(e) Propane;

(f) Carbon dioxide or dry ice;

(g) Ethanol;

(h) Isopropanol; or

(i) Heat, screens, presses or steam distillation.

(21) "Medical marijuana grower agent" means an owner, an employee, a volunteer, an officer, or a director of a licensed grower.

(22) Medical Marijuana-Infused Prouct.

(a) "Medical marijuana-infused product" means oil, wax, ointment, salve, tincture, capsule, suppository, dermal patch, cartridge or other product containing medical marijuana concentrate or usable marijuana that has been processed so that the dried leaves and flowers are integrated into other material.

(b) "Medical marijuana-infused product" does not include a food as that term is defined in Health-General Article, §21-101, Annotated Code of Maryland.

(23) "Processing" means the manufacture of usable medical marijuana into a medical marijuana concentrate, or manufacture of a medical marijuana-infused product.

(24) "Program" means a program overseen by an academic medical center through which marijuana is made available to qualifying patients for medical use.

(25) "Qualifying patient" means:

(a) A resident of Maryland who:

(i) Has been provided with a written certification by a certifying physician in accordance with a bona fide physician-patient relationship; or

(ii) Is enrolled in a research program with a registered academic medical center; and

(b) If younger than 18 years old, has a caregiver.

(26) "Registered dispensary agent" means a dispensary agent who is registered by the Commission in accordance with COMAR 10.62.18.

(27) "Registered grower agent" means a medical marijuana grower agent who is registered by the Commission in accordance with COMAR 10.62.07.

(28) Resident.

(a) "Resident" means an individual who is domiciled in:

(i) This State and owns, leases, or rents a primary place of residence in this State;

(ii) Another state but lives in a primary place of residence in this State for more than 1 year; or

(iii) Another state and owns, leases, or rents a primary place of residence in Maryland for more than 1 year.

(b) "Resident" does not include an individual who is domiciled in another state and is:

(i) A student enrolled in an accredited school, college, or university of this State, an adjoining state, or the District of Columbia;

(ii) Serving a medical internship in this State;

(iii) A member of the armed forces of the United States or of the United States Public Health Service and serving on active duty in this State, an adjoining state, or the District of Columbia;

(iv) Temporarily employed in Maryland for a period not to exceed 1 year; or

(v) A visitor or vacationer temporarily maintaining or occupying a residence in this State for a period not to exceed 1 year.

(29) "Transportation agent" means either:

(a) A registered grower agent or a registered dispensary agent, authorized by the licensee to transport products containing marijuana, who meets the criteria specified in Regulation 10.62.14.04; or

(b) A licensed and bonded courier of a secure transportation company.

(30) Usable Marijuana.

(a) "Usable marijuana" means the dried leaves and flowers of the Cannabis plant.

(b) "Usable marijuana" does not include seedlings, seeds, stems, stalks or roots of the plant or the weight of any non-marijuana ingredients combined with marijuana, such as ingredients added to prepare a topical administration.

(31) "Variety" means the name of a cultivar or varietal of medical marijuana used by a licensed grower to consistently identify and control medical marijuana from batch to batch.

(32) "Written certification" means a certification that is issued by a certifying physician for a qualifying patient with whom the physician has a bona fide physician-patient relationship; and

(33) "30-day supply" means 120 grams of usable marijuana.

10.62.02 General Regulations

Authority: Health General Article, §§13-3301—13-3316, Annotated Code of Maryland

.01 Scope.

This subtitle governs operations of the Natalie M. LaPrade Medical Marijuana Commission.

.02 Donations.

A. The Commission may accept private donations to the Fund subject to the conditions established by the Commission.

B. Donations to the Fund may not be accepted from an individual or entity that:

(1) Is licensed or approved by the Commission;

(2) Is seeking licensure or approval by the Commission;

(3) Has sought licensure or approval within the past 5 years, or

(4) Is affiliated with an individual or entity described in §B(1)—(3) of this regulation.

C. An individual or entity that has made a donation to the Fund may not apply for licensure or approval by the Commission for a period of 5 years from the date of donation.

D. A donation shall be by check made payable to the Commission.

.03 HIPAA Compliance.

All Commission activities shall be conducted in compliance with HIPAA regulations.

10.62.03 Certifying Physicians

Authority: Health General Article, §§13-3301, 13-3302, and 13-3307, Annotated Code of Maryland

.01 Physician Application for Approval.

A. A physician seeking approval as a certifying physician shall submit an application provided by the Commission that includes:

(1) The physician's:

(a) Full name;

(b) Office addresses and phone numbers;

(c) Current email address;

(d) Maryland Board of Physicians license number;

(e) Plan to screen patients for dependence on substances of abuse before and after a patient is issued a written certification; and

(f) Plan to assess patient outcomes, provide follow-up care, and to collect and analyze data;

(2) An attestation that the:

(a) Physician's Maryland license to practice medicine is active and in good standing;

(b) Physician is authorized to prescribe controlled substances by the State; and

(c) Physician has completed a Commission-approved training course;

(3) The medical conditions for which the physician may issue written certifications for medical marijuana;

(4) The physician's other inclusion criteria; and

(5) The reasons the physician may deny issuing a written certification of medical marijuana.

B. The Commission encourages physicians to apply to be approved as a certifying physician to treat patients who:

(1) Have a chronic or debilitating disease or medical condition that results in the patient being admitted into hospice or receiving palliative care;

(2) Have a chronic or debilitating disease or medical condition or are receiving treatment for a chronic or debilitating disease or medical condition that causes:

(a) Cachexia;

(b) Anorexia;

(c) Wasting syndrome;

(d) Severe pain;

(e) Severe nausea;

(f) Seizures; or

(g) Severe or persistent muscle spasms;

(3) Have the following diseases and conditions:

(a) Glaucoma, if the certifying physician is a board certified ophthalmologist; or

(b) Post traumatic stress disorder (PTSD), if the certifying physician is a board certified psychiatrist.

C. A physician may be approved as a certifying physician to treat a patient who has a condition this is:

(1) Severe;

(2) For which other medical treatments have been ineffective; and

(3) If the symptoms reasonably can be expected to be relieved by the medical use of marijuana.

D. A certifying physician may apply to amend the approval at any time.

E. The Commission:

(1) Shall approve an application that is complete and satisfactory; and

(2) May deny an incomplete, fraudulent or unsatisfactory application.

F. The Commission shall notify the applicant that the application has been approved.

.02 Written Certification.

A. A certifying physician may determine that a patient qualifies for a written certification only:

(1) With a patient whom the certifying physician has a bona fide physician-patient relationship;

(2) If the qualifying patient meets the certifying physician's inclusion criteria;

(3) If the qualifying patient does not meet the certifying physician's exclusion criteria;

(4) If the qualifying patient has been screened for dependence on substances of abuse, including chemical testing, if appropriate, and has been determined by the physician to be of low risk for addiction, dependence, or diversion; and

(5) If the certifying physician has determined that the potential benefits of the medical use of marijuana likely outweigh the health risks for the patient.

B. The certifying physician shall:

(1) Transmit the written certification to the Commission in the manner determined by the Commission; and

(2) Provide a copy of the written certification to the qualifying patient.

C. A written certification shall include the:

(1) Physician's name, Maryland Board of Physicians license number, and office telephone number;

(2) Qualifying patient's name, date of birth, address, and county of residence;

(3) Medical condition requiring medical marijuana; and

(4) The date of qualification as a qualifying patient.

D. A certifying physician may discuss the use of medical marijuana with a qualifying patient.

E. A certifying physician shall terminate a written certification if:

(1) The qualifying patient meets the physician's exclusion criteria;

(2) Treatment with medical marijuana is no longer necessary for the qualifying patient;

(3) Adverse effects of medical marijuana outweigh the benefits to the qualifying patient's health; or

(4) There is evidence that the qualifying patient engaged in diversion of medical marijuana.

F. A certifying physician may terminate a written certification if the qualifying patient demonstrates abuse of any substance of abuse.

G. A certifying physician shall notify the Commission within 1 business day of the termination of a written certification.

H. A qualifying patient shall have only one certifying physician at any time.

.03 Written Certification Renewal.

A. A qualifying patient may seek renewal of their written certification no less than 30 calendar days after it was issued by notifying their certifying physician.

B. A certifying physician may renew the written certification for a qualifying patient if the certifying physician determines the patient still meets the criteria set forth in Regulation .02A of this chapter.

C. Upon renewing a written certification for a qualifying patient, a certifying physician shall notify the Commission in the manner the Commission determines.

D. A certifying physician may not renew a written certification unless the physician has made a full, in-person assessment of the qualifying patient within the 365 days before the reissuance.

.04 Compensation from a Licensed Grower or Licensed Dispensary.

A. A certifying physician may not receive compensation, including promotion, recommendation, advertising, subsidized rent, or anything of value, from a licensed grower or a licensed dispensary unless the certifying physician submits an application to the Commission for the approval for the compensation.

B. The application shall disclose the specific type of compensation and specific amount or value of compensation, and the services for which the compensation will be paid.

C. The Commission shall deny an application for compensation if the compensation is based on any agreement or arrangement for the certifying physician to refer, direct or recommend qualifying patients to the licensed grower or licensed dispensary to obtain medical marijuana.

D. The Commission may deny an application for compensation if the compensation agreement may create an appearance that the compensation compromises the independent judgment of the certifying physician in the treatment of a patient.

E. A certifying physician may not serve as the clinical director of a licensed dispensary.

F. The Commission shall publish the approved compensation on the Commission's website.

.05 Annual Report.

A. A certifying physician shall submit an annual report to the Commission in the manner and at the time determined by the Commission.

B. The annual report shall include:

(1) The number of qualifying patients issued written certification by the certifying physician categorized by gender and by county of residence or Baltimore City;

(2) The medical conditions for which certification was issued;

(3) A summary of the clinical outcomes of the qualifying patients' use of medical marijuana by age, gender and other relevant criteria as specified by the Commission;

(4) A summary of any adverse effects in the use of medical marijuana experienced by any qualifying patient of the certifying physician; and

(5) A summary of steps taken in response to instances of suspected diversion of medical marijuana.

C. The annual report may not include any personally identifiable information related to any qualifying patient.

.06 Renewal of Certifying Physician Approval to Certify.

A. An approval is valid for 2 years.

B. A certifying physician shall apply to renew an approval to certify at the time of renewal of the physician's license to practice medicine by the Maryland Board of Physicians.

C. The Commission shall provide a certifying physician with notice of renewal 90 business days before expiration of the approval.

D. The Commission shall grant approval of the application for renewal if:

(1) The certifying physician attests that:

(a) The certifying physician's license to practice medicine in Maryland is active and in good standing; and

(b) The certifying physician's registration by the State to prescribe controlled dangerous substances is valid;

(2) The certifying physician has submitted annual reports when and in the manner determined by the Commission; and

(3) The certifying physician documents that, within the 2 years before applying to renew an approval to certify, the physician has completed a course approved by the commission of at least 2 hours in the science or use of marijuana in medical practice; and

(4) The certifying physician has otherwise complied with this chapter.

E. If a certifying physician fails to obtain a renewal of an approval to issue written certifications, the certifying physician may not issue written certifications.

.07 Action Against a Physician.

A. The Commission may deny a certifying physician's application for approval to certify if the physician:

(1) Fraudulently applied for approval;

(2) Fraudulently issued a written certification; or

(3) Failed to comply with this chapter.

B. The Commission shall report to the Maryland Board of Physicians any instance of fraud or conduct that threatens public health by a certifying physician.

10.62.04 New Condition Approval Process

Authority: Health General Article, §13-3307(c) and (d), Annotated Code of Maryland

.01 Requirement of a Petition.

A person who wishes to suggest a medical condition, medical treatment, or disease for Commission consideration shall submit a petition to the Commission in a format determined by the Commission.

.02 Hearing.

At least once per year if needed, the Commission shall conduct a public hearing to evaluate any petition to consider other medical conditions, medical treatments, or diseases that may be treated by using medical marijuana and included in certifying physician applications.

.03 Petition Contents.

The Commission shall consider a petition that may include:

A. The severity of a condition or the treatments thereof;

B. The degree to which other medical treatments have been ineffective to alleviate pain, suffering, disability or the symptoms of the condition or the treatment thereof;

C. Evidence that supports a finding that the use of marijuana alleviates pain, suffering, disability or symptoms of the condition or the treatment thereof;

D. Any information or studies regarding any beneficial or adverse effects from the use of marijuana in patients with the medical condition, medical treatment, or disease that is the subject of the petition; and

E. Letters of support from physicians or other licensed health care professionals knowledgeable about the condition, treatment, or disease.

.04 Summary Denial.

The Commission may deny a petition, without submitting it for public comment if the petition:

A. Is facially insubstantial; or

B. Pertains to a medical condition, medical treatment, or disease that has been previously considered and rejected by the Commission, unless scientific research not previously considered in a prior Commission review is included in the petition.

.05 Additional Evidence.

In addition to information provided in a petition, the Commission may:

A. Examine scientific, medical, or other evidence and research pertaining to the petition;

B. Gather information in-person or in writing, from other persons knowledgeable about the medical conditions, medical treatments, or diseases being considered.

.06 Commission Determination.

A. Following the public hearing, the Commission shall consider the public comments and any additional information or expertise available to the Commission for each proposed severe medical condition, medical treatment or disease considered at the hearing.

B. The Commission may conclude that physicians will be encouraged to apply to the Commission to treat the medical condition, medical treatment, or disease upon a determination that:

(1) The medical condition, medical treatment, or disease is debilitating;

(2) The pain, suffering and disability of the medical condition, disease or medical treatment thereof can reasonably be expected to be relieved by medical marijuana; and

(3) Other medical treatments have been ineffective in providing relief.

10.62.05 Patient and Caregiver Registry and Identification Cards

Authority: Health General Article, §§13,3301, 13-3302(d), 13-3303(g), 13-3307(f)(3), Annotated Code of Maryland

.01 Registry of Qualifying Patients and Caregivers.

A. The Commission shall establish a registry of qualifying patients and caregivers.

B. An entry into the registry shall include the name of the:

(1) Qualifying patient;

(2) Qualifying patient's certifying physician; and

(3) If applicable, qualifying patient's caregiver or caregivers.

C. A qualifying patient or qualifying patient's designee shall notify the Commission in writing by electronic means within 72 hours of:

(1) The addition of patients and caregivers to the registry, and

(2) The removal of patients and caregivers from the registry.

D. The Commission shall provide access to the Commission's register to a Maryland law enforcement agency on a real-time basis only for just cause to verify that a patient or caregiver is:

(1) Participating in a program; or

(2) Registered with the Commission.

.02 Identification Cards for Patients and Caregivers.

A. Upon being issued a written certification by a certifying physician, a qualifying patient may apply to the Commission for an identification card or to be registered with the Commission by submitting to the Commission:

(1) The completed application form as provided by the Commission;

(2) A current, clear photograph of the applicant's face taken within 6 months of application;

(3) A copy of the qualifying patient's government identification card or other proof of identity; and

(4) The required fee as specified in COMAR 10.62.28.

B. Upon being designated a caregiver by a qualifying patient, a caregiver shall apply to the Commission for an identification card, and shall submit to the Commission:

(1) The name of the qualifying patient for whom the caregiver is providing assistance or for whom the caregiver is a parent or legal guardian;

(2) Proof that the caregiver is authorized to act as a caregiver by the qualifying patient;

(3) A current, clear photograph of the applicant's face taken within 6 months of application;

(4) The completed application in a format determined by the Commission;

(5) An attestation that the caregiver is not the caregiver for more than five qualifying patients;

(6) A copy of the caregiver's government identification card or other proof of identity;

(7) The required fee as specified in COMAR 10.62.28; and

(8) A signed acknowledgement that the caregiver understands the restrictions on the use or redistribution of medical marijuana set forth in COMAR 10.62.22.04.

C. An identification card shall contain:

(1) The name and date of birth of the cardholder;

(2) An expiration date 1 year from the date of issue;

(3) A current, clear photograph of the applicant's face taken within the previous 6 months; and

(4) The qualifying patient identification number or the caregiver identification number assigned by the Commission.

D. If the identification card is lost, destroyed or stolen, within 72 hours of becoming aware of the loss, destruction or theft, the qualifying patient or caregiver shall:

(1) Report the loss, destruction or theft to the local law enforcement agency and the Commission; and

(2) Apply for a replacement card and pay the replacement card fee specified in COMAR 10.62.28.

E. A police report or law enforcement case number regarding the loss, destruction or theft of an identification card and a copy of the notification to the Commission shall be evidence that a person is a qualifying patient or a caregiver until a new card is obtained from the Commission.

F. If there is any change in name or address, the qualifying patient or caregiver shall:

(1) Notify the Commission within 72 hours in the manner required by the Commission; and

(2) If seeking a replacement identification card, pay the replacement fee to obtain a new identification card.

G. If a certifying physician fails to renew a qualifying patient certification, a qualifying patient shall return an identification card to the Commission in a manner to be determined by the Commission within 5 business days.

H. A qualifying patient or his or her designee shall notify the Commission of a change in caregiver within 72 hours.

I. A caregiver shall return his or her identification card with respect to a qualifying patient to the Commission in a manner to be determined by the Commission within 5 business days if:

(1) A certifying physician terminates or fails to renew a written certification of a qualifying patient; or

(2) A caregiver is no longer assisting a qualifying patient.

J. A qualifying patient in hospice care is exempt from obtaining an identification card.

.03 Renewal of Identification Card.

A. A qualifying patient shall renew their identification card before it expires in a manner to be determined by the Commission.

B. A caregiver shall renew their identification card before it expires in a manner to be determined by the Commission.

.04 Misuse of Identification Card.

A. If a person attempts to use a qualifying patient identification card that is not issued to him or her, any dispensary agent to whom it is offered shall confiscate it and initiate the return of the card to the Commission within 5 business days.

B. If a person presents to a law enforcement officer an identification card of a qualifying patient that was not issued to him or her, the law enforcement officer shall confiscate the identification card and initiate the return of the card to the Commission as soon as possible.

C. The Commission may notify the certifying physician and revoke the identification card of a qualifying patient who allows his or her identification card to be used by another person.

10.62.06 Medical Marijuana Grower License

Authority: Health General Article, §§13-3302, 13-3309, and 13-3312, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Audited financial statement" means an audited financial statement that is:

(a) Performed by a certified public accountant licensed or with practice privileges in Maryland pursuant to Business Occupations and Professions Article, Title 2, Annotated Code of Maryland; (b) Prepared in accordance with the Professional Standards of the American Institute of Certified Public Accountants; and

(b) In the case of a publicly owned corporation, in conformity with the standards of the Public Company Oversight Board.

(2) "Footnoted financial statement" means the presentation of information that includes

(a) In the case of an individual, a personal balance sheet as of the end of the year before the submission of an application for a license under this subtitle by certified public accountant licensed or with practice privileges in Maryland pursuant to Business Occupations and Professions Article, Title 2, Annotated Code of Maryland, which contains a footnote that none of the assets included therein result from illegal activities; and

(b) In the case of a company or partnership, an audited financial statement which contains a footnote that none of the assets included therein result from illegal activities.

(3) "License" means a license issued by the Commission to operate as a grower.

(4) "Licensee" means a licensed grower.

.02 Application for a Medical Marijuana Grower License.

A. An applicant shall submit an application for a license in a manner determined by the Commission.

B. An application shall include:

(1) Identification of applicant's potential medical marijuana grower agents and each individual investor with 5 percent or more of investment known at the time of application;

(2) A business plan including an organizational chart;

(3) Documentation and source of adequate capitalization;

(4) If the applicant is a corporation, a copy of the articles of incorporation and authorization to do business in Maryland;

(5) A record of tax payments in all jurisdictions in which an applicant has operated as a business for the 5 years before the filing of the application;

(6) A description of the proposed premises, including a preliminary site plan;

(7) A security plan;

(8) Details of the applicant's experience, knowledge, and training in commercial horticultural or agronomic production;

(9) The medical marijuana varieties proposed to be grown with proposed cannabinoid profiles and evidence of success in alleviating symptoms of specific diseases or conditions;

(10) A plan for quality control;

(11) A plan for inventorying, safekeeping and tracking:

(a) Medical marijuana from "seed to sale," and

(b) Waste plant material prior to destruction; and

(12) A disposal plan for medical marijuana waste.

C. A grower planning to operate as a dispensary of medical marijuana shall submit a dispensary application.

D. The application shall be accompanied by the stage 1 application fee specified in COMAR 10.62.28.

E. Any party applying for a license shall have an interest in only one license application.

F. An applicant has a continuing duty to amend an application within 3 business days to include the name and documentation of a request to forward the criminal history record information and footnoted financial statement to the Commission of a new individual investor of an interest of 5 percent or more, or another manager or director of the entity, even after a license is issued.

.03 Criminal History Record Check.

For each individual identified in the application specified in Regulation .02B(1) of this chapter, an applicant shall provide to the Director of the Central Repository:

A. Two sets of legible fingerprints taken in a format approved by the Director of CJIS and the Director of the FBI and the fee authorized under section 10-221(B)(7) of the Criminal Procedure article for access to State criminal history and records for each medical marijuana grower agent and investor identified in the application; and

B. A request that the individual's state and national criminal history record information be forwarded to the Commission.

.04 Consent for Investigation.

A. An individual who is required to provide personal and background information under this chapter shall provide a statement that irrevocably gives consent to the Commission and persons authorized by the Commission to:

(1) Verify all information provided in the application documents; and

(2) Conduct a background investigation of the individual.

B. An applicant shall authorize the Commission to have access to any and all information the applicant has provided to any other jurisdiction while seeking a similar license in that other jurisdiction, as well as the information obtained by that other jurisdiction during the course of any investigation it may have conducted regarding the applicant.

.05 Application Review.

A. The burden of proving an applicant's qualifications rests on the applicant.

B. The Commission may deny an application that contains a misstatement, omission, misrepresentation, or untruth.

C. An application shall be complete in every material detail.

D. The Commission may request any additional information the Commission determines is necessary to process and fully investigate an application.

E. The applicant shall provide requested additional information by the close of business of the 14th business day after the request has been received by the applicant.

F. If the applicant does not provide the requested information within 14 business days, the Commission may consider the application to be suspended.

G. An application is not complete until the Commission receives:

(1) The criminal history record information required in Regulation .03 of this chapter; and

(2) Any required or requested attachment or supplemental information.

H. The Commission, or a Commission approved third party, shall review completed applications for a license and rank the applications using an impartial and numerically scored competitive bidding process developed by the Commission based on the following criteria:

(1) The proposed location in an agricultural zone;

(2) Racial, ethnic, and geographic diversity;

(3) Status as a Minority Business Enterprise, as defined in State Finance and Procurement Article, §14-301, Annotated Code of Maryland;

(4) Status as a veteran or military spouse, as defined in Health Occupations Article, §1-701, Annotated Code of Maryland;

(5) Quality of proposed safety and security procedures;

(6) The medical marijuana varieties proposed to be grown with proposed cannabinoid profiles, including varieties with high cannabidiol content, and evidence of success in alleviating symptoms of specific diseases or conditions;

(7) Quality of the plan to grow, cure, process and package medical marijuana;

(8) Quality of experience, knowledge, and training in commercial horticultural or agricultural production;

(9) Quality of quality control plan;

(10) Quality of inventory control plan;

(11) Quality of medical marijuana waste disposal plan;

(12) Quality of plan to enforce the alcohol and drug free workplace policy;

(13) Quality of the business plan;

(14) Demonstration of adequate capitalization;

(15) Maryland residency; and

(16) If applicable, history of payment of income taxes in Maryland and other jurisdictions.

.06 Pre-Approval of Application.

A. Limitation on number of licenses:

(1) Until May 31, 2016, in accordance with Health General Article, §13-3309(a)(2), Annotated Code of Maryland, in consideration of the ranking of the applications in accordance with regulation .04, the Commission may issue pre-approvals of a license up to a total of 15 licenses.

(2) Beginning June 1, 2016, the Commission may issue the number of pre-approvals of a license necessary to meet the demand for medical marijuana by qualifying patients in an affordable, accessible, secure and efficient manner.

B. If there are more qualified applications than the number of licenses available and there is a numerical tie for the last license to be issued, the license shall be determined by public lottery.

C. The Commission may deny issuing a pre-approval of a license if, for any individual identified in the application specified in Regulation .02B(1) of this chapter:

(1) The criminal history record information demonstrates an absence of good moral character; or

(2) The payment of taxes due in any jurisdiction is in arrears.

D. Within 10 business days of the Commission's decision, the Commission shall notify an applicant who has been pre-approved for a license.

E. The Commission may rescind pre-approval of a grower license if the grower is not operational within 1 year of pre-approval.

.07 Issuance of License.

A. After an applicant has been issued a pre-approval for a license under this chapter the applicant shall submit to the Commission, as part of its application:

(1) A footnoted financial statement for each individual, partnership, corporation or other entity review that has invested, or is proposed to invest, 5 percent or more of the capital of the applicant;

(2) Evidence of adequate surety bond and insurance; and

(3) Payment of the stage 2 application fee specified in COMAR 10.62.28

B. The Commission may issue a license either to grow medical marijuana or to grow medical marijuana and distribute it to qualifying patients and caregivers on a determination that:

(1) The footnoted financial statement submitted regarding the applicant individuals and entities specified in Regulation .02C(1) of this chapter reveal no evidence that demonstrates the absence of good moral character;

(2) All inspections are passed and all of the applicant's operations conform to the specifications of the application as pre-approved pursuant to Regulation .06 of this chapter;

(3) The proposed premises:

(a) Are under the legal control of the applicant;

(b) Comply with all zoning and planning requirements; and

(c) Conform to the specifications of the application as pre-approved pursuant to Regulation .06 of this chapter; and

(4) The first installment of the biennial license fee specified in COMAR 10.62.28 has been paid.

.08 Change of Ownership of License.

A. No interest of 5 percent or more of a license issued pursuant to this chapter shall be assignable or transferable unless:

(1) The Commission has received notice in a manner determined by the Commission of the intent of the owner of the interest, or of the estate of the owner of the interest, to transfer or assign an interest in a license to another party;

(2) The transferee has had forwarded the criminal history record information and footnoted financial statement to the Commission of the transferee;

(3) The Commission does not object to the transfer or assignment within 180 business days of its receipt of notice; and

(4) The transferee has paid the required fee specified in COMAR 10.62.28.

B. The Commission may deny transfer of an interest in a license if the criminal history record information or the background investigation demonstrates an absence of good moral character, or the payment of taxes due in any jurisdiction is in arrears, for any proposed transferee.

.09 Change of Location.

A. A licensee may apply to change the location of the licensee's operation.

B. The application shall be made in a manner determined by the Commission and accompanied by the fee specified in COMAR 10.62.28.

C. A licensee may not begin cultivation or dispensing of medical marijuana at a new location until all inspections have been passed.

.10 Renewal of License.

A. A licensee is eligible to apply to renew a license every 2 years.

B. Ninety business days before the expiration of a license, the Commission shall notify the licensee of the:

(1) Date on which the license expires;

(2) Process and the fee required to renew the license; and

(3) Consequences of a failure to renew the license.

C. A licensee who fails to apply for renewal of a license by the date specified by the Commission:

(1) Shall cease operation of the premises;

(2) May not provide medical marijuana to any entity or person.

D. A license may be reinstated upon:

(1) Payment of the fee specified in COMAR 10.62.28; and

(2) Submission of a reinstatement application approved by the Commission.

E. At least 30 business days before a license expires a licensee shall submit:

(1) The renewal application as provided by the Commission;

(2) Proof that fingerprints have been submitted to CJIS and the FBI for every medical marijuana grower agent and investor of an interest of 5 percent or more;

(3) To full inspection of the operation, unless a full inspection was satisfactorily completed within 3 months before the date of the license expiration; and

(4) Payment of the fee specified in COMAR 10.62.28.

F. The Commission shall renew a license that meets the requirements for renewal as stated in §E of this regulation.

G. If the Commission does not renew a license due to a failed inspection or an inadequate application for renewal, the licensee may apply for reinstatement by:

(1) Submitting a plan to correct the deficiencies noted during an inspection; and

(2) Amending the application for renewal.

H. The Commission may decline to renew a license if:

(1) The plan to correct deficiencies identified in an inspection is deficient;

(2) The amended application for renewal is deficient; or

(3) The licensee has repeatedly failed inspections.

10.62.07 Medical Marijuana Grower Agents

Authority: Health General Article, §§13-3301, 13-3302, 13-3309, and 13-3312, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "License" means a license issued by the Commission to operate as a grower.

(2) "Licensee" means a licensed grower.

.02 Grower Agent Generally.

A grower agent shall be at least 21 years of age.

.03 Grower Agent Registration and Criminal History Record.

A. Each medical marijuana grower agent shall be registered with the Commission before the agent may volunteer or work for a licensed grower.

B. A licensed grower shall apply to register a grower agent by submitting to the Commission in a manner to be determined by the Commission:

(1) The name, address and date of birth of a grower agent;

(2) Documentation of the submission of fingerprints of the grower agent to the Central Registry; and

(3) The request for the criminal history record information of the grower agent to be forwarded to the Natalie M. LaPrade Commission.

C. A prospective grower agent may not be registered if the prospective grower agent has ever been convicted of a felony drug offense.

D. The Commission, after review of the criminal history record information, may disqualify any prospective grower agent from registration for an absence of good moral character.

.04 Registered Grower Agent Identification Cards.

A. The Commission shall issue to each registered grower agent a registration card which shall include a photograph of the face of the registered grower agent taken no more than 6 months before the date of the application.

B. At all times every registered grower agent at a licensed premises shall visibly wear the identification card issued to the registered grower agent by the Commission.

C. The identification card shall be renewed every 2 years.

D. If a registered grower agent's identification card is lost, destroyed or stolen, within 24 hours of becoming aware of the loss, destruction or theft, the licensee shall:

(1) Report the loss, destruction or theft to a local law enforcement agency and the Commission;

(2) Apply for a replacement card; and

(3) Pay a replacement card fee specified in COMAR 10.62.28.

E. An identification card remains the property of the Commission and the Commission may order the return or seizure of an identification card if the registration is revoked or expires.

F. If a registered grower agent's identification card is lost, destroyed or stolen, a police report and a copy of notification to the Commission shall be evidence of registration until a new card is obtained from the Commission.

.05 Termination.

A. As soon as possible upon termination of a registered grower agent's association with a licensed grower, the licensed grower shall:

(1) Take custody of a terminated registered grower agent's identification card;

(2) Obtain any keys or other entry devices from a terminated registered grower agent; and

(3) Ensure a terminated registered grower agent can no longer gain access to the licensed premises.

B. Within 1 business day of a termination of a registered grower agent's association with a licensed grower, a licensed grower shall:

(1) Notify the Commission in a manner to be determined by the Commission:

(a) Of a termination and the circumstances of a termination; and

(b) Whether a terminated registered grower agent has returned the agent's registration card; and

(2) Initiate delivery of a terminated registered grower agent's identification card to the Commission.

C. The Commission shall revoke a registration of a grower agent upon receiving notification that a grower agent is no longer associated with a licensed grower.

D. If a registered grower agent did not return the agent's registration card within 30 days of the termination, the Commission shall place a notice in the register of that fact.

.06 Prospective Grower Agent Drug Screen.

A. The licensee shall require a prospective grower agent to submit to a drug screen before commencement of association.

B. The drug screen shall be carried out following the procedures set forth in COMAR 17.04.09.04—.08.

C. In addition to the drugs to be screened in accordance with COMAR 17.04.09.06, the screen shall include:

(1) Illegal synthetic cannabinoids and compounds as required by the Commission; and

(2) Any other drugs as required by the Commission.

D. Unless medically justified, a prospective grower agent who has a positive response to any tested substance on a drug screen that meets the requirements of COMAR 17.04.09.07 may not be registered by the Commission.

.07 Grower Agent Training.

A. The licensee shall train all registered grower agents on:

(1) Federal and State medical marijuana laws and regulations, and laws and regulations pertinent to pesticide application, groundwater, and other laws related to the agent's responsibilities;

(2) Standard operating procedures;

(3) Detection and prevention of diversion of medical marijuana;

(4) Security procedures; and

(5) Safety procedures, including responding to a medical emergency, a fire, a chemical spill, and a threatening event such as an armed robbery, invasion, burglary or other criminal incident.

B. The licensee shall retain training materials and make the training materials available for inspection by the Commission.

.08 Alcohol and Drug Free Workplace Policy.

A. Each registered grower agent shall declare in writing that the registered grower agent will adhere to the State alcohol and drug free workplace policy, as identified in COMAR 21.11.08.03.

B. The licensee shall retain the declaration in a registered grower agent's personnel record.

.09 Annual Verification of Registered Grower Agents.

Every year, on a date determined by the Commission, the licensee shall notify the Commission in a manner determined by the Commission that the licensee has verified that no registered grower agent has been convicted of a felony drug offense.

10.62.08 Medical Marijuana Grower Premises

Authority: Health General Article, §§13-3309(a)(3), (d), and (e), Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "License" means a license issued by the Commission to operate as a grower.

(2) "Licensee" means a licensed grower.

.02 Premises Generally.

A. A licensed premises shall be located within Maryland.

B. A licensed premises used to distribute medical marijuana shall:

(1) Be separate from the premises used to cultivate, produce, manufacture or process medical marijuana;

(2) Conform to COMAR 10.62.19.04 relating to dispensary premises specifications regarding a vault and COMAR 10.62.19.09 relating to licensed dispensary premises organization; and

(3) Conform to local zoning and planning requirements.

C. The license shall be conspicuously displayed at each licensed premises.

D. Modification of Premises.

(1) A licensee shall apply to the Commission for approval to make major renovations or modifications to a licensed premises.

(2) No major renovation or modification shall be undertaken without approval of the Commission.

.03 Field Cultivation Premises.

A. Licensed premises for field cultivation of medical marijuana shall be situated to maintain the greatest achievable level of privacy and security.

B. Physical Security.

(1) An area of cultivation shall be securely surrounded by fencing and gates constructed to prevent unauthorized entry.

(2) Security fencing shall be of chain link fencing at least 8 feet high topped with multiple strands of barbed wire.

C. Fencing and gates shall be equipped with a security alarm system that:

(1) Covers the entire perimeter;

(2) Is continuously monitored; and

(3) Is capable of detecting power loss.

D. The premises shall be protected by a video surveillance recording system to ensure:

(1) Surveillance of the entire perimeter of the area of cultivation;

(2) Surveillance over all portions of the security fence and all gates; and

(3) Adherence to the video surveillance requirements of this chapter.

E. A video surveillance system shall be supported by adequate security lighting which may include motion control sensors if necessary to protect light-dark cycles for proper cultivation.

.04 Security Hardware.

A. A licensed premises shall be constructed to prevent unauthorized entry.

B. If the licensed premises is located within a building or structure that also houses a non-licensed premises, any wall between the licensed premises and the non-licensed premises shall be sufficient to prevent unauthorized entry.

C. A cipher or chip-activated keyed lock or equivalent shall be used in a door to deny passage by an unauthorized individual to the premises and any room in which production, cultivation, storage, or processing medical marijuana takes place, or in which security equipment is located in the licensed premises.

D. In addition, a groundlevel greenhouse to be used to cultivate medical marijuana shall be surrounded by:

(1) An 8 foot or higher chain link fence topped with multiple strands of barbed wire, located no less than 20 feet from a greenhouse; and

(2) A 15 foot area free of vegetation.

.05 Security Lighting.

A. Lighting fixtures of the licensed grower shall be designed and installed to:

(1) Ensure proper surveillance of:

(a) Both sides of all exterior doors, entrances and portals; and

(b) All interior doors and passages between rooms; and

(2) Illuminate work areas for employee safety.

B. This regulation does not apply to lighting in areas of the premises used to cultivate medical marijuana.

.06 Security Alarm Systems.

A. A licensee shall maintain a security alarm system that covers all perimeter entry points and windows at all premises.

B. A security system shall be:

(1) Continuously monitored;

(2) Capable of detecting smoke and fire; and

(3) Capable of detecting power loss.

C. A security alarm system shall include panic alarm devices mounted at convenient, readily-accessible locations throughout the licensed premises.

D. A second, independent security alarm system shall be used to protect:

(1) A location where records are stored on-site;

(2) A location where records are stored off-site; and

(3) A vault that holds medical marijuana.

E. A security alarm system shall remain operational until a licensed premises no longer has any medical marijuana, seeds, or cuttings on the premises.

F. A security alarm system shall be equipped with auxiliary power sufficient to maintain operation for at least 48 hours.

.07 Video Surveillance Requirements.

A. A licensee shall maintain a video surveillance recording system at all premises:

(1) That records images in high quality and high resolution capable of clearly revealing facial detail and all activity recorded;

(2) That operates 24-hours a day, 365 days a year without interruption; and

(3) That provides a continuous date and time stamp for every recorded frame.

B. A licensee shall post appropriate notices advising visitors of the video surveillance.

C. A surveillance camera shall be located and operated to continuously capture each exit from the premises.

D. A surveillance camera shall continuously capture activity at each entrance to an area where medical marijuana is grown, tested, cured, manufactured, processed or stored.

E. A recording of all images captured by each surveillance camera shall be kept:

(1) At the licensed premises; and

(2) At an off-site location.

F. The storage of all recordings of security video surveillance shall be:

(1) Access-limited;

(2) Secured by a security alarm system that is independent of the main premises security alarm system;

(3) In a format that can be easily accessed for investigational purposes; and

(4) Retained for a minimum of 120 calendar days.

G. Any recording of security video surveillance shall be made available to the Commission or law enforcement agency for just cause as requested.

.08 Visitors to a Non-Public Area of the Premises.

A. When a visitor is admitted to a non-public area of the premises of a licensee, a registered grower agent shall:

(1) Log the visitor in and out;

(2) Photocopy the visitor's government-issued identification;

(3) Continuously visually supervise the visitor while on the premises; and

(4) Ensure that the visitor does not touch any plant or medical marijuana.

B. The licensee shall maintain a log of all visitors to non-public areas for 5 years.

10.62.09 Medical Marijuana Growing Controls

Authority: Health General Article, §§13-3301, 13-3302, and 13-3309, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Green waste" means unused, surplus, returned, or out of date medical marijuana, recalled medical marijuana, and any plant debris, including dead plants, all unused plant parts, and roots.

(2) "Growing media" means commercially produced potting mix.

(3) "Hard goods" means any non-plant material used in the cultivation or processing of medical marijuana.

(4) "License" means a license issued by the Commission to operate as a grower.

(5) "Licensee" means a licensed grower.

(6) "Unique identifier" means any symbol or mark that enables tracking of final product to the grower, seed, or plant from which the medical marijuana originated.

.02 Standard Operating Procedure.

A licensee shall establish a written standard operating procedure for:

A. All aspects of the irrigation, propagation, cultivation, fertilization, harvesting, drying, curing, packaging, labeling and handling of medical marijuana products, byproducts, waste products, and the control thereof, to promote good growing and handling practices;

B. Ensuring that each individual engaged in the cultivation, manufacturing, handling, packaging, and testing of medical marijuana has the training, education, or experience necessary to perform assigned functions; and

C. Ensuring that all registered grower agents practice good hygiene and wear protective clothing as necessary to protect the product as well as themselves from exposure to potential contaminants.

.03 Design and Construction.

A licensed premises shall be:

A. Of suitable size and design to facilitate proper operation;

B. Constructed using materials which are durable and can withstand weather extremes; and

C. Designed to:

(1) Prevent contamination throughout the premises; and

(2) Allow adequate cleaning.

.04 Horticultural Controls.

A. Standard operating procedure for receipt of material and hard goods.

(1) A licensee shall quarantine material and hard goods that are received to be used to produce medical marijuana.

(2) A licensee shall inspect material and hard goods for defects, contamination, and compliance with a licensee's specifications.

(3) Material and hard goods may not be released from quarantine by a licensee until they:

(a) Pass inspection; and

(b) Are determined to be acceptable for use as intended.

B. Water.

(1) If water is obtained from a municipal water supply, a licensee shall have the quality of the water tested by an independent testing laboratory annually.

(2) If the water is obtained from a source other than a municipal water supply, a licensee shall have the quality of the water tested by an independent testing laboratory every 6 months.

(3) Medical marijuana may be irrigated only by water that meets or exceeds the standards for contamination set forth in the standard operating procedure.

(4) The licensee shall keep a record of water quality testing on site and make it available for inspection.

C. Fertilizer. As part of the standard operating procedure, a licensee shall:

(1) Adopt a nutrient management plan prepared by a certified nutrient management consultant;

(2) Use fertilizer or hydroponic solution of a type, formulation, and at a rate, to support healthy growth of medical marijuana; and

(3) Maintain records of the type and amounts of fertilizer and any growth additives used.

D. A licensee shall specify in the standard operating procedure the use of growing media or hydroponic solution.

E. Unless the medical marijuana is field grown, a licensee shall install, as part of the standard operating procedure, a system to monitor, record, and regulate:

(1) Temperature;

(2) Humidity;

(3) Ventilation; and

(4) Lighting, if used.

F. A licensee shall seal or screen the premises ventilation system with a mesh or filtering system fine enough to exclude most plant pests.

G. Pest Monitoring. A licensee shall use, as part of the standard operating procedure, integrated pest management practices and

techniques to identify and manage plant and pest problems, including:

(1) A door control system sufficient to prevent pest entry;

(2) Regular visual inspection of plants and growing areas for the presence of pests;

(3) The use of sticky cards in growing areas; and

(4) Identification and recording all pests or pathogens detected and the measures taken for control.

H. Pest Control as part of the standard operating procedure.

(1) If using a restricted use pesticide, a licensee or registered grower agent on site shall:

(a) Maintain a valid State pesticide applicators license; or

(b) Contract with a commercial State licensed pesticide applicator.

(2) When applying a pesticide or fungicide, a licensee shall:

(a) Follow State and pesticide label guidelines; and

(b) Maintain State-required records.

I. Sanitation. A licensee shall, as part of the standard operating procedure:

(1) Keep floors and benches free of debris, non-cannabis plants and algae;

(2) Remove dead and substandard plants from growing areas;

(3) Clean floors, benches, pots, tools, and equipment that come into contact with plants using only sanitizing agents are labeled as approved for vegetable, fruit, or medicinal plant production; and

(4) Control rodents and other non-plant related pests:

(a) By using chemicals are labeled as approved for use around vegetables, fruit, or medicinal plants; or

(b) By other commercially acceptable practices.

J. Green Waste. A licensee shall weigh, document, and destroy all green waste in accordance with the standard operating procedure.

.05 Equipment.

A. A licensee shall maintain equipment that comes in contact with medical marijuana to prevent contamination.

B. A licensee shall maintain cleaning and equipment maintenance logs.

C. A licensee shall have any scale, balance, or other measurement device, and any automatic, mechanical, or electronic equipment routinely calibrated by a calibration laboratory accredited to International Organization for Standardization (ISO) standard ISO/IEC 17025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement.

10.62.10 Quality Control by a Licensed Medical Marijuana Grower

Authority: Health General Article, §§13-3302, 13-3306, and 13-3308, Annotated Code of Maryland

.01 Production and Process Controls.

A. A licensee shall cultivate each plant and produce each batch of medical marijuana in conformity with the standard operating procedure.

B. A licensee shall record each step of the propagation, cultivation, fertilization, harvesting, drying, curing, packaging, labeling and handling of a batch of medical marijuana in a secure, tamper-evident log, to ensure:

(1) Consistency of the batch with the variety; and

(2) Accuracy of the day-to-day production.

C. A licensee shall record any deviation from the standard operating procedure in the log.

D. A licensee may not release any batch of medical marijuana if there was any deviation in production of the batch from the standard operating procedure unless:

(1) After independent testing of the batch in accordance with the criteria set forth in Regulation .04 of this chapter the batch is tested by an independent testing laboratory and the licensee determines, as a result of such testing, that the batch meets the specification for the variety; and

(2) The determination is recorded.

.02 In-Process Inspection by Grower.

During the process of cultivation, a licensee shall regularly inspect each plant to ensure proper growth and absence of pests and disease.

.03 Holding Procedure.

A licensee shall hold medical marijuana in secure, segregated storage until released for distribution.

.04 Independent Testing Laboratory Selection and Responsibility.

The licensee shall use an independent testing laboratory:

A. That has adopted a standard operating procedure to test medical marijuana and medical marijuana concentrate that is approved by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement;

B. To obtain samples of each batch according to a statistically valid sampling method by an agent of an independent testing laboratory;

C. To analyze the samples according to:

(1) The most current version of the Cannabis Inflorescence monograph published by the American Herbal Pharmacopeia (AHP); or

(2) A scientifically valid methodology that is equal or superior to that of the AHP monograph;

D. To issue a certificate of analysis; and

E. To destroy the remains of the sample of medical marijuana after analysis is completed.

.05 Contents of Certificate of Analysis.

An independent testing laboratory shall issue a certificate of analysis for each batch, with supporting data, to report:

A. Whether the chemical profile of the batch conforms to the variety for the following compounds:

(1) Δ9-Tetrahydrocannabinol (THC);

(2) Tetrahydrocannabivarinic Acid (THCA);

(3) Cannabidiol (CBD);

(4) Cannabidiolic Acid (CBDA);

(5) The terpenoids described in the most current version of the Cannabis Inflorescence monograph published by the American Herbal Pharmacopeia (AHP);

(6) Cannabigerol (CBG); and

(7) Cannabinol (CBN);

B. That the presence of the following contaminants does not exceed the levels determined by the Commission:

(1) Mercury, lead, cadmium, or arsenic;

(2) Foreign material such as hair, insects, or any similar or related adulterant;

(3) Any microbiological impurity, including:

(a) Total aerobic microbial count (TAMC);

(b) Total yeast mold count (TYMC);

(c) P. aeruginosa;

(d) Aspergillus spp.;

(e) S. Aureus;

(f) Aflatoxin B1, B2, G1, and G2;

(g) Ochratoxin A.; and

(h) Pesticide residue; and

(4) Whether the batch is within specification for the characteristics of:

(a) Odor;

(b) Appearance;

(c) Fineness; and

(d) Moisture content.

.06 Grower Determination That a Batch May be Released.

A. If a licensed grower, upon review of the certificate of analysis, determines that a batch meets the specification for the variety, the grower may:

(1) Assign an expiration date to the batch;

(2) Release the batch for distribution; and

(3) Revise the status of the batch in the inventory control.

B. A licensee shall retain every certificate of analysis.

.07 Stability Testing and Retention Sampling.

A. A licensee shall provide a sample from each released batch to an independent testing laboratory sufficient to perform stability testing at 6-month intervals to:

(1) Ensure product potency and purity; and

(2) Provide support for expiration dating.

B. A licensee shall retain a sample from each released batch:

(1) Sufficient to provide for follow-up testing if necessary; and

(2) Properly store the sample for one year past the date of expiration of the batch.

.08 Report of Products Offered for Distribution.

A licensee shall submit to the Commission on the first day of every month a list of the products and their specifications that the licensee offered for distribution in the previous month.

10.62.11 Complaints, Adverse Events, and Recall

Authority: Health General Article, §§13-3302, 13-3304, 13-3307, 13-3309, 13-3310, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Medical marijuana" means any product containing medical marijuana including medical marijuana concentrate and medical marijuana-infused product..

(2) "Serious adverse event" means an undesirable experience associated with the use of medical marijuana where the outcome was death, life-threatening, hospitalization, disability or permanent damage, congenital anomaly/birth defect, required intervention to prevent permanent impairment or damage, or an other important medical event including, but not limited to allergic bronchospasm, seizures/convulsions, or the development of drug dependence or abuse.

.02 Receipt and Documentation of Complaints and Adverse Events.

A licensed grower, licensed dispensary, licensed processing dispensary, certifying physician, academic medical center, and the Commission shall establish a procedure to receive, organize, store and respond to all oral, written, electronic or other complaints regarding medical marijuana and adverse events.

.03 Report of Serious Adverse Event to Commission and Interested Parties.

In the event a complaint associated with a serious adverse event is received, a licensee, certifying physician, or academic medical center shall promptly report the complaint to:

A. The Commission;

B. Either the licensed grower from which the medical marijuana originated or the licensed processing dispensary from which the medical marijuana concentrate originated; and

C. Either the program in which the patient is participating or the certifying physician caring for the qualifying patient.

.04 Complaint Investigation by Grower or Dispensary.

A. Whenever a complaint regarding the quality or safety of medical marijuana is received by a licensed grower, licensed processing dispensary or licensed dispensary, a licensee shall, within 24 hours, review the complaint to determine if it is substantive or reports a serious adverse event.

B. If a licensee determines that the complaint is substantive or reports a serious adverse event, a licensee shall:

(1) Promptly determine the batch number or lot number of the medical marijuana, the finished medical marijuana product, and medical marijuana concentrate the subject of the complaint; and

(2) Investigate the record and circumstances of the production of the batch and lot to determine:

(a) If there was a deviation from the standard operating procedure in the production of the medical marijuana by reviewing production logs; and

(b) If the sample meets specification by submitting parts of the retention samples of the batch and lot to an independent testing laboratory.

C. If sample analysis of the batch or lot reveals that the batch or lot fails to meet specification, the licensee shall:

(1) Order a recall of all products derived from or included in the batch or lot;

(2) Notify all patients, caregivers, programs and dispensaries who may have obtained medical marijuana products from such a batch or lot of the recall; and

(3) Offer and pay reimbursement for any returned medical marijuana.

D. In a case of a report of a serious adverse event or a substantive complaint, if the investigation reveals a deviation from the standard operating procedure in the production of the batch or lot, the licensee may:

(1) Order a recall of all products derived from or included in the batch or lot;

(2) Notify all patients, caregivers, programs and dispensaries who may have obtained medical marijuana products from such a batch or lot of the recall; and

(3) Offer and pay reimbursement for any returned medical marijuana.

E. The Commission may review the investigation of any licensee under this chapter, and if it determines that it is in the interest of public health, the Commission may:

(1) Order a recall of all products derived from or included in the batch or lot of medical marijuana that is associated with a substantive complaint or serious adverse event; and

(2) Notify all patients, caregivers, programs and dispensaries who may have obtained medical marijuana products from such a batch or lot of the recall.

.05 Custody of Returned Recalled Material.

A. The licensee shall develop a procedure to ensure medical marijuana that is recalled is stored and segregated until disposal of recalled material is authorized by the Commission.

B. Within 24 hours of the receipt of notice from the Commission that the disposal of recalled medical marijuana is authorized, the licensee shall dispose of the recalled medical marijuana according to the standard operating procedure.

10.62.12 Inventory Control by Grower

Authority: Health General Article, §§13-3301, 13-3302, and 13-3309(e), Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Inventory control" means the record of the inventory in the perpetual inventory control system used by the licensee in accordance with this chapter.

(2) "Licensee" means a licensed grower.

(3) "Unique identifier" means any symbol or mark which will enable tracking of medical marijuana from plant to final product by means of the inventory control.

.02 Inventory Control System.

A. A licensee shall use a perpetual inventory control system that identifies and tracks the licensee's stock of medical marijuana from the time the medical marijuana is propagated from seed or cutting to the time it is delivered to an academic medical center, licensed dispensary, licensed processing dispensary or a qualifying patient or caregiver.

B. In the event of a serious adverse event, an inventory control system shall be capable of tracking medical marijuana from a qualifying patient back to the source of medical marijuana.

C. The inventory control system shall be designed to promptly identify a discrepancy in the stocks.

.03 Materials Received for Cultivation.

Upon receipt of raw material for cultivation, a licensee shall record in the inventory control:

A. The date delivered; and

B. The number of clones or seeds delivered or the weight of the seeds for each variety in the shipment.

.04 Plant Tagging and Entry into Inventory Control.

A. For each plant, as soon as practical, a licensee shall:

(1) Create a unique identifier for each plant;

(2) Assign a batch number to each plant in a batch;

(3) Enter information regarding the plant into the inventory control system;

(4) Create a tag with the unique identifier and batch number; and

(5) Securely attach the tag to a container in which a plant is grown until a plant is large enough to securely hold a tag.

B. Tags shall be indelible and tamper-evident.

C. Tags shall be made of a material that resists variation in temperature and moisture.

.05 Control of Harvested Medical Marijuana.

A licensee shall:

A. Upon completion of curing or drying of each batch, weigh medical marijuana to update inventory control for the batch; and

B. At least monthly, conduct a physical inventory of the stock and compare the physical inventory of stock with inventory control.

.06 Discrepancy Reporting.

A. If a licensee discerns a discrepancy between the inventory of stock and inventory control outside of normal weight loss due to moisture loss and handling, within 1 business day, the licensee shall commence an audit of the discrepancy.

B. If the licensee finds evidence of a theft or diversion within 1 business day the licensee shall report the theft or diversion to the Commission and to the Maryland State Police.

C. Within 30 business days of discovering a discrepancy, the licensee shall:

(1) Complete the audit;

(2) Amend the licensee's standard operating procedures, if necessary; and

(3) Send a report of the audit to the Commission.

.07 Product Returned for Destruction.

A licensee shall accept the return of any medical marijuana from a qualifying patient, a caregiver, or an academic medical center to destroy.

.08 Bar on Distribution of Non-complying Medical Marijuana.

A. A licensee or registered grower agent may not distribute any medical marijuana to any person if the licensee or registered grower agent knows, or should have reason to know, that the distribution does not comply with any provision of Chapter 256 of the Acts of 2014, or this subtitle.

B. A licensee or registered grower agent may not distribute any medical marijuana to any person if the licensee or registered grower agent knows, or should have reason to know, that the medical marijuana does not comply with any provision of Chapter 256 of the Acts of 2014, or this subtitle.

10.62.13 Dispensing of Medical Marijuana by a Licensed Grower

Authority: Health General Article, §§13–3301, 13-3309, and 13–3310, Annotated Code of Maryland

.01 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

(1) "Dispensary license" means a license issued by the Commission to operate as a dispensary.

(2) "Licensee" means a licensed grower.

(3) "Satellite premises" means a dispensary owned and operated by a licensed grower at a location removed from the premises at which a licensee grows medical marijuana.

.02 Location of Dispensary at Premises Where Medical Marijuana is Grown.

A licensee may distribute medical marijuana to qualifying patients and caregivers at the premises at which the licensee grows medical marijuana in conformity with COMAR chapters 10.62.15 through 10.62.22:

A. Only by use of a separate entrance from the primary entrance to the premises at which the licensee grows medical marijuana; or

B. At premises that are located in close proximity to the premises at which the licensee grows medical marijuana.

.03 Licensed Grower Satellite Dispensary Premises.

A. A licensee may distribute medical marijuana to qualifying patients and caregivers in conformity with COMAR chapters 10.62.15 through 10.62.22 at the premises of a single satellite facility which does not need to be close to the premises at which the licensee grows medical marijuana.

B. A licensee shall construct and operate a satellite premises in conformity to COMAR 10.62.19, relating to medical marijuana dispensary premises.

C. A licensee may hire employees or use volunteers at a satellite premises in conformity to COMAR 10.62.18, relating to registered dispensary agents.

10.62.14 Shipment of Products Containing Marijuana Between Licensees

Authority: Health General Article, §§13–3301 and 13-3309(d)—(g), Annotated Code of Maryland

.01 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

(1) "Medical marijuana transport vehicle" means a vehicle owned, or leased by a licensee, for the purpose of transporting products containing marijuana that meets the criteria specified in Regulation .08 of this chapter.

(2) "Secure transportation company" means a business that is licensed, whose employees are bonded, and that provides highly secure vehicles for the transportation of valuables.

(3) "Shipment identification number" means a unique identification number created by the shipping licensee to track a shipment of products containing marijuana.

(4) "Shipping licensee" means the licensee that initiates the shipment.

.02 Electronic Manifest System.

A. A licensee shall install an electronic manifest system to record the chain of custody for the shipment of products containing marijuana.

B. An electronic manifest system shall include a chain of custody that records:

(1) The name and address of the shipping licensee;

(2) The shipping licensee's shipment identification number;

(3) The weight and description of each individual package that is part of the shipment, and the total number of individual packages;

(4) The name of the registered grower agent or registered dispensary agent that prepared the shipment;

(5) The name and address of the receiving licensee or other receiving party if applicable; and

(6) Any handling or storage instructions.

.03 Creation of Manifest.

A. An electronic manifest shall be created by the shipping licensee for each shipment of products containing marijuana.

B. The electronic manifest shall contain, at a minimum, the following entries as a chain of custody, in the order listed:

(1) An entry by the registered grower agent or registered dispensary agent who has prepared the shipment, including the date and time of preparation;

(2) An entry by a shipping licensee's transportation agent, of the date and time of the placement of the shipment into the medical marijuana transport vehicle;

(3) An entry by licensee's agent receiving the shipment including the date and time of the acceptance; and

(4) If any other person had custody or control of the shipment, that person's identity, the circumstances, duration, and disposition.

.04 Transportation Agents.

A. A transportation agent driving a medical marijuana transport vehicle shall have a current driver's license.

B. While on duty, a transportation agent may not wear any clothing or symbols that may indicate ownership or possession of marijuana.

.05 Transportation of Products Containing Marijuana.

A. Either a secure transportation company or a shipping licensee shall transport products containing marijuana.

B. A shipping licensee shall use at least two transportation agents, who shall carry identification approved by the Commission, to accompany shipment of products containing marijuana.

C. When a transportation agent takes custody of a shipment of products containing marijuana, a transportation agent shall:

(1) Log into the electronic manifest;

(2) Confirm that each package in the shipment is labeled as described in the electronic manifest and record that confirmation in the electronic manifest;

(3) Obtain in the electronic manifest the signature of the registered grower agent or registered dispensary agent who delivers the shipment to the transportation agent; and

(4) Record in the electronic manifest the date and time the shipment is secured in the medical marijuana transport vehicle.

D. During shipment, packages containing marijuana shall be:

(1) Securely stored within a medical marijuana transport vehicle to resist unauthorized access;

(2) Isolated from access by a transportation agent; and

(3) Not visible from the outside of the medical marijuana transport vehicle.

.06 Packaging Products Containing Marijuana for Shipment.

A. A licensee, prior to shipping an order of products containing marijuana, shall repackage, if necessary, the shipment into a container:

(1) Constructed of tamper-evident opaque material approved by the Commission; and

(2) Sealed with tamper-evident tape.

B. The shipping licensee shall create an electronic manifest for each package in a shipment.

C. Multiple packages that are being shipped to the same recipient may be sealed within one large opaque tamper-evident container.

.07 Labeling of Packages for Shipment.

A. Each package in a shipment of products containing marijuana shall be labeled with:

(1) The date and time of the sealing of the package for shipment;

(2) The name and signature of the registered grower agent or registered dispensary agent who prepared the package and sealed the package;

(3) The name and address of the shipping licensee;

(4) The shipment identification number;

(5) A description, including the weight, of each item, contained in the package; and

(6) The name and address of the licensee, or other party if applicable, to receive the shipment.

B. A label shall be made of weather-resistant and tamper-evident materials.

C. A label shall be conspicuously placed on a package.

.08 Medical Marijuana Transport Vehicle.

A medical marijuana transport vehicle shall:

A. Have and display current registration from the State;

B. Be insured as required by law; and

C. Not display any sign or illustration related to marijuana or a licensee.

10.62.15 Licensed Dispensary and Licensed Processing Dispensary

Authority: Health General Article, §§13–3301 and 13–3310, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Audited financial statement" means an audited financial statement that is performed by a certified public accountant licensed

or with practice privileges in Maryland pursuant to Title 2 of the Business Occupations and Professions Code that is prepared in accordance with the Professional Standards of the American Institute of Certified Public Accountants and in the case of a publicly owned corporation in conformity with the standards of the Public Company Oversight Board.

(2) "Footnoted financial statement" means the presentation of information that includes

(a) In the case of an individual, a personal balance sheet as of the end of the year prior to the submission of an application for a license under this subtitle by certified public accountant licensed or with practice privileges in Maryland pursuant to Title 2 of the Business Occupations and Professions Code which contains a footnote that none of the assets included therein result from illegal activities; and

(b) In the case of a company or partnership, an audited financial statement which contains a footnote that none of the assets included therein result from illegal activities.

(3) "License" means a license issued by the Commission to operate as a licensed dispensary or a licensed processing dispensary.

(4) "Licensee" means a licensed dispensary or licensed processing dispensary.

.02 Application.

A. An applicant shall submit an application for a license in a manner determined by the Commission.

B. The application shall specify the applicant's intent to operate as:

(1) A licensed dispensary to distribute medical marijuana to qualifying patients and caregivers;

(2) A licensed processing dispensary; or

(3) Both a licensed processing dispensary and a licensed dispensary.

C. An application to be a licensed dispensary or licensed processing dispensary shall include:

(1) Identification of:

(a) The applicant's potential dispensary agents; and

(b) Each individual investor with 5 percent or more of investment known at the time of application;

(2) A business plan including an organizational chart;

(3) Documentation and source of adequate capitalization;

(4) If the applicant is a corporation, a copy of the articles of incorporation and authorization to do business in Maryland;

(5) A record of tax payments in all jurisdictions in which an applicant has operated as a business for the 5 years before the filing of the application;

(6) A description of the proposed premises, including a preliminary site plan;

(7) A security plan;

(8) A plan for quality control;

(9) A plan for inventorying, safekeeping and tracking medical marijuana from entry into inventory to sale or disposal of medical marijuana waste;

(10) A plan for the disposal of medical marijuana waste; and

(11) A plan for training employees and volunteers.

D. An application to operate as a licensed dispensary to distribute medical marijuana to qualifying patients and caregivers shall include:

(1) A plan for counseling qualifying patients and caregivers in the use of medical marijuana; and

(2) The medical marijuana varieties proposed to be dispensed with proposed cannabinoid profiles and evidence of success in alleviating symptoms of specific diseases or conditions.

E. An application to operate as a licensed processing dispensary shall include:

(1) Details of the applicant's experience, knowledge, and training in the operation of a laboratory; and

(2) A plan of the medical marijuana concentrates and medical marijuana-infused products proposed to be manufactured and the processes to be used.

F. The application shall be accompanied by the stage 1 application fee specified in COMAR 10.62.28.

G. Any party applying for a license shall have an interest in only one license application.

H. An applicant has a continuing duty to amend an application within 3 business days to include the name and documentation of a request to forward the criminal history record information and footnoted financial statement to the Commission of a new individual investor of an interest of 5 percent or more, or another manager or director of the entity, even after a license is issued.

.03 Licensed Grower Acting as a Dispensary.

At a licensed grower premises or approved grower satellite premises, a licensed grower may dispense medical marijuana in conformity with this subtitle.

.04 Criminal History Record Request.

For each individual identified in the application specified in Regulation .02C(1) of this chapter, an applicant shall provide to the Director of the Central Repository:

A. Two sets of legible fingerprints taken in a format approved by the Director of CJIS and the Director of the FBI and the fee authorized under Criminal Procedure Article, §10-221(B)(7), Annotated Code of Maryland, for access to State criminal history and records for each dispensary agent and investor identified in the application; and

B. A request that the individual's state and national criminal history record information be forwarded to the Commission.

.05 Consent for Investigation.

A. An individual who is required to provide personal and background information under this chapter shall provide a statement that irrevocably gives consent to the Commission and persons authorized by the Commission to:

(1) Verify all information provided in the application documents; and

(2) Conduct a background investigation of the individual.

B. An applicant shall authorize the Commission to have access to any and all information the applicant has provided to any other jurisdiction while seeking a similar license in that other jurisdiction, as well as the information obtained by that other jurisdiction during the course of any investigation it may have conducted regarding the applicant.

.06 Application Review.

A. The burden of proving an applicant's qualifications rests on the applicant.

B. The Commission may deny an application that contains a misstatement, omission, misrepresentation, or untruth.

C. An application shall be complete in every material detail.

D. The Commission may request any additional information the Commission determines is necessary to process and fully investigate an application.

E. The applicant shall provide additional requested information by the close of business of the 14th business day after the request has been received by the applicant.

F. If the applicant does not provide the requested information within 14 business days, the Commission may consider the application to be suspended.

G. An application is not complete until the Commission receives:

(1) The criminal history record information required in Regulation .04 of this chapter; and

(2) Any required or requested attachment or supplemental information.

H. The Commission, or a Commission approved third party, shall:

(1) Review completed applications for a license to be a licensed dispensary; and

(2) Rank the applications using an impartial and numerically scored competitive bidding process developed by the Commission based on the following criteria:

(a) Racial, ethnic, and geographic diversity of the applicants;

(b) Status of the applicants as a Minority Business Enterprise, as defined in State Finance and Procurement Article, §14-301, Annotated Code of Maryland;

(c) Status of the applicants as a veteran or military spouse, as defined in Health Occupations Article, §1-701, Annotated Code of Maryland;

(d) Quality of proposed safety and security procedures;

(e) The medical marijuana varieties proposed to be dispensed with proposed cannabinoid profiles, including varieties with high cannabidiol content;

(f) Quality of the quality control plan;

(g) Quality of the inventory control plan;

(h) Quality of the plan to dispose of medical marijuana waste;

(i) Quality of the plan to dispense medical marijuana;

(j) Quality of the plan to counsel qualifying patients and caregivers in the use of medical marijuana;

(k) Quality of the plan to utilize the clinical director and to train dispensary agents;

(l) Quality of the plan to enforce the alcohol and drug free workplace policy;

(m) Quality of the business plan;

(n) Demonstration of adequate capitalization;

(o) Maryland residency of the applicant; and

(p) If applicable, history of payment of income taxes in Maryland and other jurisdictions.

I. The Commission, or a Commission approved third party, shall:

(1) Review completed applications for a license to be a licensed processing dispensary; and

(2) Rank the applications using an impartial and numerically scored competitive bidding process developed by the Commission based on the following criteria:

(a) Racial, ethnic, and geographic diversity of the applicants;

(b) Status of the applicants as a Minority Business Enterprise, as defined in State Finance and Procurement Article, §14-301, Annotated Code of Maryland;

(c) Status of the applicants as a veteran or military spouse, as defined in Health Occupations Article, §1-701, Annotated Code of Maryland;

(d) Quality of proposed safety and security procedures;

(e) The medical marijuana concentrates and medical marijuana-infused products proposed to be manufactured with proposed cannabinoid profiles;

(f) Quality of the quality control plan;

(g) Quality of the inventory control plan;

(h) Quality of the plan to dispose of medical marijuana waste;

(i) Quality of the plan to process and package medical marijuana;

(j) Nature of applicant's experience operating a laboratory;

(k) Quality of the plan to enforce the alcohol and drug free workplace policy;

(l) Quality of the business plan;

(m) Demonstration of adequate capitalization;

(n) Maryland residency of the applicant; and

(o) If applicable, history of payment of income taxes in Maryland and other jurisdictions.

.07 Pre-Approval of License Application.

A. Number of Pre-approvals.

(1) In consideration of the ranking of the applications in accordance with Regulation .06, the Commission may issue pre-approvals of up to two licensed dispensaries, other than as a licensed processing dispensary that does not dispense medical marijuana to qualifying patients, per Senatorial district after taking into consideration the number of grower premises or grower satellite premises licensed to dispense medical marijuana located in the Senatorial district.

(2) The Commission shall pre-approve a number of licenses for licensed processing dispensaries sufficient to supply the demand for medical marijuana concentrates and medical marijuana-infused products in a range of routes of administration desired by qualifying patients.

B. If there are more qualified applications than the number of licenses available and there is a numerical tie for the last license to be issued, the last pre-approved license shall be determined by public lottery.

C. The Commission may deny issuing a pre-approval of a license if, for any individual identified in the application specified in Regulation .02C(1) of this chapter:

(1) The criminal history record information demonstrates an absence of good moral character; or

(2) The payment of taxes due in any jurisdiction is in arrears.

D. Within 10 business days of the Commission's decision, the Commission shall notify applicants who have been pre-approved for a license.

.08 Issuance of License.

A. After an applicant has been issued a pre-approval for a license under this chapter the applicant shall submit to the Commission, as part of its application:

(1) A footnoted financial statement for each individual, partnership, corporation, or other entity review that has invested, or is proposed to invest, 5 percent or more of the capital of the applicant;

(2) Evidence of adequate surety bond and insurance; and

(3) Payment of the stage 2 application fee specified in COMAR 10.62.28.

B. The Commission may issue a license either to be a licensed dispensary distributing directly to patients or to be a licensed processing dispensary on a determination that:

(1) The footnoted financial statement submitted regarding the applicant individuals and entities specified in Regulation .02C(1) of this chapter reveal no evidence that demonstrates the absence of good moral character;

(2) All inspections are passed and all of the applicant's operations conform to the specifications of the application as pre-approved pursuant to Regulation .07 of this chapter;

(3) The proposed premises:

(a) Are under the legal control of the applicant;

(b) Comply with all zoning and planning requirements; and

(c) Conform to the specifications of the application as pre-approved pursuant to Regulation .07 of this chapter; and

(4) The first installment of the biennial license fee specified in COMAR 10.62.28 has been paid.

.09 Change of Ownership of License.

A. No interest of 5 percent or more of a license issued pursuant to this chapter shall be assignable or transferable unless:

(1) The Commission has received notice in a manner determined by the Commission of the intent of the owner of the interest, or of the estate of the owner of the interest, to transfer or assign an interest in a license to another party;

(2) The transferee has had forwarded the criminal history record information and footnoted financial statement to the Commission of the transferee;

(3) The Commission does not object to the transfer or assignment within 180 business days of its receipt of notice; and

(4) The transferee has paid the required fee specified in COMAR 10.62.28.

B. The Commission may deny transfer of an interest in a license if, for any proposed transferee:

(1) The criminal history record information or the background investigation demonstrates an absence of good moral character; or

(2) The payment of taxes due in any jurisdiction is in arrears.

.10 Change of Location.

A. A licensee may apply to change the location of the licensee's operation.

B. The application shall be made in a manner determined by the Commission and accompanied by the fee as specified in COMAR 10.62.28.

C. A licensee may not begin dispensing or processing medical marijuana at a new location until all inspections have been passed.

.11 Renewal of License.

A. A licensee is eligible to apply to renew a license every 2 years.

B. Ninety business days before the expiration of a license, the Commission shall notify the licensee of the:

(1) Date on which the license expires;

(2) Process and the fee required to renew the license; and

(3) Consequences of a failure to renew the license.

C. A licensee who fails to apply for renewal of a license by the date specified by the Commission:

(1) Shall cease operations at all premises; and

(2) May not provide medical marijuana to any entity or person.

D. A license may be reinstated upon:

(1) Payment of the fee specified in COMAR 10.62.28; and

(2) Submission of a reinstatement application approved by the Commission.

E. At least 30 business days before a license expires a licensee shall submit:

(1) The renewal application as provided by the Commission;

(2) Proof that fingerprints have been submitted to CJIS and the FBI for every dispensary agent and investor of an interest of 5 percent or more;

(3) To full inspection of the operation, unless a full inspection was satisfactorily completed within 3 months before the date of the license expiration; and

(4) Payment of the fee specified in COMAR 10.62.28.

F. The Commission shall renew a license that meets the requirements for renewal as stated in §E of this regulation.

G. If the Commission does not renew a license due to a failed inspection or an inadequate application for renewal, the licensee may apply for reinstatement by:

(1) Submitting a plan to correct the deficiencies noted during an inspection; and

(2) Amending the application for renewal.

H. The Commission may decline to renew a license if:

(1) The plan to correct deficiencies identified in an inspection is deficient;

(2) The amended application for renewal is deficient; or

(3) The licensee has repeatedly failed inspections.

10.62.16 Medical Marijuana Concentrates and Medical Marijuana-Infused Products

Authority: Health General Article, §§13-3301, 13-3310, 13-3313, and 13-3316, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "License" means a license issued by the Commission to operate as a dispensary.

(2) "Licensee" means a licensed processing dispensary.

(3) "Tincture" means a marijuana-infused solution typically comprised of alcohol, glycerin, or vegetable oils derived either directly from the marijuana plant or from a processed marijuana extract.

.02 Controls for Processing Medical Marijuana Concentrates and Medical Marijuana-Infused Products.

A. A licensed processing dispensary that processes medical marijuana concentrates and medical marijuana-infused products shall:

(1) Develop standard operating procedures, good manufacturing practices, and a training plan before producing medical marijuana concentrates and medical marijuana-infused products;

(2) Ensure that any person involved in processing medical marijuana concentrates and medical marijuana-infused products is:

(a) Fully trained to safely operate and maintain the system used for processing;

(b) Has direct access to applicable material safety data sheets and labels; and

(c) Follows OSHA protocols for handling and storage of all chemicals;

(3) Assign a unique lot number to each lot of medical marijuana concentrate or medical marijuana-infused product; and

(4) Carry out a validation process on the first 10 lots of any new medical marijuana concentrate, medical marijuana-infused product, or process, to establish the validity of the production process.

B. A licensed processing dispensary shall use the methods, equipment, solvents, and gases set forth in this chapter when processing medical marijuana concentrates.

C. If a licensed processing dispensary uses a solvent-based extraction method the following solvents shall be at least 99 percent pure:

(1) Butane;

(2) Isobutane;

(3) Propane;

(4) Heptane; or

(5) Other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the Secretary of the Department of Health and Mental Hygiene.

D. When using the solvents required in §C of this regulation, a licensed processing dispensary shall:

(1) Use the solvents in a professional grade, closed-loop extraction system designed to recover the solvents;

(2) Work in a spark-free environment with proper ventilation; and

(3) Follow all applicable OSHA regulations, and local fire, safety and building codes in the processing and storage of the solvents.

E. If a licensed processing dispensary uses carbon dioxide gas extraction:

(1) Every vessel shall be rated to a minimum of 900 pounds per square inch; and

(2) The licensed processing dispensary shall:

(a) Use a professional grade, closed-loop system;

(b) Follow all applicable OSHA regulations, and local fire, safety and building codes in the processing and the storage of the solvents; and

(c) Use carbon dioxide that is at least 99 percent pure.

F. A licensed processing dispensary may use heat, screens, presses, steam distillation, ice water, and other methods to produce medical marijuana concentrates.

.03 Independent Testing Laboratory Selection and Responsibility.

Upon successful completion of a validation process, the licensee shall use an independent testing laboratory:

A. That has adopted a standard operating procedure to test medical marijuana and medical marijuana concentrate that is approved by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement;

B. To have an agent of the independent testing laboratory obtain samples according to a statistically valid sampling method for each lot;

C. To analyze the samples according to

(1) The most current version of the Cannabis Inflorescence monograph published by the American Herbal Pharmacopeia (AHP); or

(2) A scientifically valid methodology that is equal or superior to that of the AHP monograph;

D. To issue a certificate of analysis; and

E. To destroy the remains of the sample of medical marijuana after analysis is completed.

.04 Contents of Certificate of Analysis.

An independent testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report:

A. Whether the chemical profile of the lot conforms to the specifications for the lot for the following compounds:

(1) Δ9-Tetrahydrocannabinol (THC);

(2) Tetrahydrocannabivarinic Acid (THCA);

(3) Cannabidiol (CBD);

(4) Cannabidiolic Acid (CBDA);

(5) The terpenoids described in the most current version of the Cannabis Inflorescence monograph published by the American Herbal Pharmacopeia (AHP);

(6) Cannabigerol (CBG); and

(7) Cannabinol (CBN);

B. That the presence of the following contaminants do not exceed the levels determined by the Commission:

(1) Any solvent or processing chemicals;

(2) Foreign material such as hair, insects, or any similar or related adulterant;

(3) Any microbiological impurity, including:

(a) Total aerobic microbial count (TAMC);

(b) Total yeast mold count (TYMC);

(c) P. aeruginosa;

(d) Aspergillus spp.;

(e) S. Aureus;

(f) Aflatoxin B1, B2, G1, and G2; and

(g) Ochratoxin A.; and

(4) Whether the batch is within specification for:

(a) Odor; and

(b) Appearance.

.05 Licensed Processing Dispensary Determination That a Batch May be Released.

A. If a licensed processing dispensary, upon review of the certificate of analysis, determines that a lot meets the specification for the product, the licensed processing dispensary may:

(1) Assign an expiration date to the lot;

(2) Release the lot for distribution; and

(3) Revise the status of the lot in the inventory control.

B. A licensee shall retain every certificate of analysis.

.06 Stability Testing and Retention Sampling.

A. A licensee shall provide a sample from each released lot to an independent testing laboratory sufficient to perform stability testing at 6-month intervals to:

(1) Ensure product potency and purity; and

(2) Provide support for expiration dating.

B. A licensee shall retain a sample from each released lot:

(1) Sufficient to provide for follow-up testing if necessary; and

(2) Properly store the sample for 1 year past the date of expiration of the lot.

.07 Packaging of Finished Medical Marijuana Product.

A. All items shall be individually packaged at the original point of processing.

B. Packaging Requirements. A package of finished medical marijuana product shall:

(1) Be plain;

(2) Be opaque;

(3) If applicable or appropriate, be child-resistant;

(4) Bear a finished-product lot number and an expiration date;

(5) Bear a clear warning that:

(a) The contents may be lawfully consumed only by a qualifying patient named on an attached label;

(b) It is a illegal for any person to possess or consume the package or contents other than the qualifying patient; and

(c) It is a illegal to transfer the package or contents to any person other than the transfer by a caregiver to a qualifying patient;

(6) Bear a clear warning to keep the package and its contents away from children;

(7) Bear the Maryland Poison Control Center emergency telephone number;

(8) Bear the name of the licensee that packaged the finished medical marijuana product and the telephone number of the licensee for reporting an adverse patient event;

(9) Bear any allergen warning required by law;

(10) Bear a listing of the non-medical marijuana ingredients;

(11) Bear an itemization, including weight, of all cannabinoid and terpenoid ingredients specified for the product; and

(12) Leave space for a licensed dispensary to attach a personalized label for the qualifying patient.

C. Packaging Prohibitions. A package of finished medical marijuana product may not bear any:

(1) Resemblance to the trademarked, characteristic or product-specialized packaging of any commercially available candy, snack, baked good or beverage;

(2) Statement, artwork or design that could reasonably mislead any person to believe that the package contains anything other a finished medical marijuana product;

(3) Seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe that the product has been endorsed, manufactured, or used by any State, county or municipality or any agency thereof; and

(4) Cartoon, color scheme, image, graphic or feature that might make the package attractive to children.

.08 Report of Products Offered for Distribution.

A licensee shall submit to the Commission on the first day of every month a list of the products and the products' specifications that the licensee offered for distribution in the previous month.

10.62.17 Licensed Dispensary Clinical Director

Authority: Health General Article, §§13–3301 and 13–3311, Annotated Code of Maryland

.01 Clinical Director Responsibilities.

A. A licensed dispensary shall appoint an individual who is a Maryland-licensed physician, nurse practitioner or pharmacist to function as clinical director.

B. A clinical director shall:

(1) Develop and provide initial training to each registered dispensary agent who will work with qualifying patients at a licensed dispensary, and at least once every 6 months commencing on the date the license is issued, training on the provision of information to qualifying patients related to:

(a) Therapeutic use of medical marijuana;

(b) Risks, benefits, and side effects associated with medical marijuana;

(c) Self-assessment of the qualifying patient's symptoms, including rating scales for pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, and agitation; and

(d) Recognizing symptoms of substance use disorders;

(2) Develop and provide initial training to each registered dispensary agent who will work with qualifying patients at a licensed dispensary, and at least once every 6 months commencing on the date the license is issued, training on recognition of an individual who appears to be impaired or abusing substances of abuse; and

(3) Lead the program of review and improvement of the standard operating procedure of the licensed dispensary in the provision of patient education and support.

C. A clinical director shall lead the development and dissemination of:

(1) Educational materials for qualifying patients and caregivers regarding:

(a) Possible side effects from and contraindications for use of medical marijuana, including potential impairment:

(i) In the use or operation of a motor vehicle, other vehicle, vessel, aircraft, or heavy equipment;

(ii) In professional or employment responsibilities; or

(iii) When caring for children;

(b) Different varieties and strengths of medical marijuana and their medical uses;

(c) Potential drug-to-drug interactions, including prescription drugs, controlled dangerous substances, non-prescription drugs, and supplements, and interactions with alcohol;

(d) Techniques to use medical marijuana, medical marijuana products, and marijuana paraphernalia;

(e) Signs and symptoms of substance abuse, including tolerance, dependence and withdrawal;

(f) Treatment of substance use disorders and available programs to treat substance use disorders;

(g) Documenting the qualifying patient's symptoms or course of the condition;

(h) Using a rating scale for symptoms of various kinds; and

(i) Sharing the qualifying patient's self-assessment with a certifying physician or primary care physician;

(2) Materials to train registered dispensary agents in communication with qualifying patients' certifying physicians regarding side effects, contraindications and qualifying patient dosages; and

(3) A policy to refuse to provide medical marijuana to an individual who appears to be impaired or to be abusing medical marijuana.

D. During a licensed dispensary's hours of operation, a clinical director, or an individual who is a Maryland-licensed physician, nurse practitioner or pharmacist, and is designated by the clinical director to serve as clinical director in the clinical director's absence, shall be on the premises of the licensed dispensary or readily available by telephone or equivalent means to respond to a qualifying patient, a caregiver, or a registered dispensary agent who has a question regarding the medical use of marijuana outside the training materials and educational materials provided at the licensed dispensary.

E. A clinical director may not be a certifying physician.

F. A clinical director may serve as clinical director for more than one licensed dispensary.

10.62.18 Registered Dispensary Agents

Authority: Health General Article, §§13–3301 and 13–3311, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "License" means a license issued by the Commission to operate as a licensed dispensary.

(2) "Licensee" means a licensed dispensary or licensed processing dispensary.

.02 Dispensary Agent Registration and Criminal History Record.

A. A dispensary agent shall be registered with the Commission before the agent may volunteer or work for a licensee.

B. A licensee shall apply to register a dispensary agent by submitting to the Commission in a manner to be determined by the Commission:

(1) The name, address and date of birth of a dispensary agent;

(2) Documentation of the submission of fingerprints of the dispensary agent to the Central Registry; and

(3) The request for the criminal history record information of the dispensary agent to be forwarded to the Natalie M. LaPrade Commission.

C. A prospective registered dispensary agent may not be registered by the Commission if the prospective registered dispensary agent has ever been convicted of a felony drug offense.

D. The Commission, after review of the criminal history record information, may disqualify any prospective registered dispensary agent from registration for an absence of good moral character.

.03 Registered Dispensary Agent Identification Cards.

A. The Commission shall issue to each registered dispensary agent a registration card that shall include a photograph of the face of the registered dispensary agent taken no more than 6 months before the date of the application.

B. At all times at the premises of a licensee every registered dispensary agent shall visibly wear the identification card issued to the registered dispensary agent by the Commission.

C. The identification card shall be renewed every 2 years.

D. If a registered dispensary agent's identification card is lost, destroyed or stolen, within 24 hours of becoming aware of the loss, destruction or theft, the licensee shall:

(1) Report the loss, destruction or theft to a local law enforcement agency and the Commission;

(2) Apply for a replacement card; and

(3) Pay a replacement card fee specified in COMAR 10.62.28.

E. An identification card remains the property of the Commission and the Commission may order the return or seizure of an identification card if the registration is revoked or expires.

F. If a registered dispensary agent's identification card is lost, destroyed, or stolen, a police report and a copy of notification to the Commission shall be evidence of registration until a new card is obtained from the Commission.

.04 Termination.

A. As soon as possible upon termination of a registered dispensary agent's association with a licensee, the licensee shall:

(1) Take custody of the terminated registered dispensary agent's identification card;

(2) Obtain any keys or other entry devices from the terminated registered dispensary agent; and

(3) Ensure the terminated registered dispensary agent can no longer gain access to the premises of the licensee.

B. Within 1 business day of the termination of a registered dispensary agent's association with a licensee, the licensee shall:

(1) Notify the commission in a manner to be determined by the Commission:

(a) Of the termination and the circumstances of a termination; and

(b) Whether the terminated registered dispensary agent has returned the agent's registration card; and

(2) Initiate delivery of the terminated registered dispensary agent's identification card to the Commission.

C. The Commission shall revoke a registration of a dispensary agent upon receiving notification that a dispensary agent is no longer associated with a licensee.

D. If a registered dispensary agent did not return the agent's registration card within 30 days, the Commission shall place a notice in the register of that fact.

.05 Prospective Dispensary Agent Drug Screen.

A. The licensee shall require a prospective dispensary agent to submit to a drug screen before commencement of association.

B. The drug screen shall be carried out following the procedures set forth in COMAR 17.04.09.04—.08.

C. In addition to the drugs to be screened in accordance with COMAR 17.04.09.06, the screen shall include:

(1) Illegal synthetic cannabinoids and compounds as required by the Commission; and

(2) Any other drugs as required by the Commission.

D. Unless medically justified, a prospective dispensary agent who has a positive response to any tested substance on a drug screen that meets the requirements of COMAR 17.04.09.07 may not be registered by the Commission.

.06 Dispensary Agent Training.

A. The licensee shall train all registered dispensary agents on:

(1) Federal and State medical marijuana laws and regulations, and other laws and regulations pertinent to the dispensary agent's responsibilities;

(2) Standard operating procedures;

(3) Detection and prevention of diversion of medical marijuana;

(4) Security procedures; and

(5) Safety procedures, including responding to;

(a) A medical emergency;

(b) A fire;

(c) A chemical spill; and

(d) A threatening event such as:

(i) An armed robbery;

(ii) An invasion;

(iii) A burglary; or

(iv) Any other criminal incident.

B. The licensee shall retain training materials and make the training materials available for inspection by the Commission.

.07 Alcohol and Drug Free Workplace Policy.

A. A registered dispensary agent shall declare in writing that the registered dispensary agent shall adhere to the State alcohol and drug free workplace policy, as identified in COMAR 21.11.08.03.

B. The licensee shall retain the declaration in the registered dispensary agent's personnel record.

.08 Annual Verification of Registered Dispensary Agents.

Every year, on a date determined by the Commission, the licensee shall notify the Commission in a manner determined by the Commission that the licensee has verified that no registered dispensary agent has been convicted of a felony drug offense.

10.62.19 Licensed Dispensary and Licensed Processing Dispensary Premises

Authority: Health General Article, §§13–3301 and 13–3310(b)(2)(iii) and (c), Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "License" means a license issued by the Commission to operate as a dispensary or a processing dispensary.

(2) "Licensee" means a licensed dispensary or licensed processing dispensary.

.02 Premises Generally.

A. The premises of a licensee shall be located within Maryland.

B. The premises of a licensee shall be separate from any premises used to cultivate, harvest, or cure medical marijuana.

C. The premises of a licensed dispensary that distributes medical marijuana to a qualifying patient shall be separate from the premises of a licensed processing dispensary.

D. The premises and operations of a licensee shall conform to all local zoning and planning requirements.

E. A dispensary license or processing dispensary license shall be conspicuously displayed at each location where the licensee is authorized to operate.

F. Renovations.

(1) A licensee shall apply to the Commission for approval to make major renovations or modifications to the premises of a licensee.

(2) No major renovation or modification shall be undertaken without approval of the Commission.

.03 Security Hardware.

A. The premises of a licensee shall be constructed to prevent unauthorized entry.

B. If the premises of a licensee are located within a building or structure that also houses a non-licensed entity, any wall between the premises of the licensee and the premises of a non-licensed entity shall be sufficient to prevent unauthorized entry.

C. A cipher or chip-activated keyed lock or equivalent shall be used in a door to deny passage by an unauthorized individual to the premises and any room in which:

(1) Storage, packaging, processing or dispensing medical marijuana takes place; or

(2) Security equipment is located in the premises of a licensee.

.04 Vault or Secure Room.

A. A licensed dispensary or a licensed processing dispensary shall contain a vault or secure room to store the medical marijuana inventory.

B. The vault or secure room:

(1) Shall be constructed of concrete or similar building material that prevents unauthorized entry;

(2) May not be placed adjacent to an exterior wall of the premises; and

(3) Shall have only one entrance door that:

(a) Meets commercial security standards;

(b) Is equipped with a cipher or chip-activated keyed lock or equivalent;

(c) Is subject to visual and electronic surveillance monitoring; and

(d) Is not visible from public areas of the premises.

C. Other than while the licensed dispensary is open for business and 1 hour before and 1 hour after, the inventory of medical marijuana shall be stored in the vault or secure room.

.05 Security Lighting.

Lighting fixtures of the licensee shall be designed and installed to:

A. Ensure proper surveillance of:

(1) Both sides of all exterior doors, entrances and portals; and

(2) All interior doors and passages between rooms; and

B. Illuminate work areas for employee safety.

.06 Security Alarm Systems.

A. A licensee shall maintain a security alarm system that covers all perimeter entry points and windows at all premises.

B. The security alarm system shall be:

(1) Continuously monitored;

(2) Capable of detecting smoke and fire;

(3) Capable of detecting power loss.

C. The security alarm system shall include panic alarm devices mounted at convenient, readily-accessible locations throughout the licensed premises.

D. A second, independent alarm system shall be used to protect:

(1) The location where records are stored on-site;

(2) The location where records are stored off-site; and

(3) Any vault that holds medical marijuana.

E. The security alarm system shall remain operational until the premises of the licensee no longer have any medical marijuana on the premises.

F. All security alarm systems shall be equipped with auxiliary power sufficient to maintain operation for at least 48 hours.

.07 Video Surveillance Requirements.

A. A licensee shall maintain a video surveillance recording system at all premises that:

(1) Records images in high quality and high resolution capable of clearly revealing facial detail and all activity recorded;

(2) Operates 24-hours a day, 365 days a year without interruption; and

(3) Provides a continuous date and time stamp for every recorded frame.

B. A licensee shall post appropriate notices advising visitors of the video surveillance.

C. A surveillance camera shall be located and operated to continuously capture activity at each exit from the premises.

D. A surveillance camera shall continuously capture activity at each entrance to an area where medical marijuana is packaged, tested, processed, stored or dispensed.

E. A recording of all images captured by each surveillance camera shall be kept at:

(1) The licensed premises; and

(2) An off-site location.

F. Recordings of security video surveillance shall be:

(1) Access-limited;

(2) Secured by a security alarm system that is independent of the main premises security alarm system;

(3) In a format that can be easily accessed for investigational purposes; and

(4) Retained for a minimum of 120 calendar days.

G. Any recording of security video surveillance shall be made available to the Commission or law enforcement agency for just cause as requested.

.08 Licensed Dispensary Premises Organization.

A. A licensed dispensary distributing medical marijuana to qualifying patients and caregivers shall divide the licensed dispensary's premises between a public zone and an operations zone.

B. Public Zone.

(1) The public zone shall have:

(a) A waiting area open to the general public; and

(b) A service area in which a qualifying patient or caregiver may consult with a registered dispensary agent and receive medical marijuana.

(2) The licensed dispensary shall maintain a tamper-evident log to record the entry and exit of all individuals other than a registered dispensary agent into the service area.

(3) The dispensary's hours of business shall be displayed in or at the entrance to the public zone.

C. Operations Zone.

(1) All operations other than counseling qualifying patients and caregivers and dispensing medical marijuana shall be carried out in the operations zone.

(2) The operations zone shall be appropriately divided into separate areas for:

(a) Medical marijuana storage;

(b) Medical marijuana preparation and packaging;

(c) Use by dispensary agents for breaks; and

(d) Changing clothing and dispensary agent lockers.

(3) Tamper-evident logbooks or electronic identification logs shall document the movement of persons to and from the operations zone.

D. Appropriate signage shall clearly delineate the separate zones.

E. Doors and other access points between zones shall be secured.

F. Security alarms systems and video surveillance, as described in Regulations .06 and .07 of this chapter, shall be used to monitor the separation between zones.

G. All medical marijuana other than that being displayed or processed during business hours shall be kept in a vault or secure room.

H. No individual other than a registered dispensary agent may handle the inventory in a display case or elsewhere in the dispensary.

.09 Visitors to a Non-Public Area of the Premises.

A. When a visitor is admitted to a non-public area of the premises of a licensee, a registered dispensary agent shall:

(1) Log the visitor in and out;

(2) Photocopy the visitor's government-issued identification;

(3) Continuously visually supervise the visitor while on the premises; and

(4) Ensure that the visitor does not touch any medical marijuana.

B. The licensee shall maintain a log of all visitors to non-public areas for 5 years.

10.62.20 Licensed Dispensary and Licensed Processing Dispensary Operations

Authority: Health General Article, §§13–3301 and 13–3310(b)(2)(iii) and (c), Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Dispensary supervisor" means the registered dispensary agent designated by the licensed dispensary to supervise dispensary operations.

(2) "Licensee" means a licensed dispensary or a licensed processing dispensary.

.02 Standard Operating Procedure.

A. A licensee shall:

(1) Establish a standard operating procedure for all aspects of the receipt, storage, packaging, labeling, handling, tracking and dispensing of products containing marijuana and medical marijuana waste;

(2) Create and use a perpetual inventory control system that identifies and tracks the licensee's stock of medical marijuana from the time it is delivered or produced to the time it is delivered to an academic medical center, another licensee, a licensed grower, or a qualifying patient or caregiver; and

(3) Train each registered dispensary agent in the standard operating procedure.

B. A copy of the standard operating procedure shall be readily available on site for inspection by the Commission.

.03 Receipt of Products Containing Marijuana.

A. A licensee or licensed grower that dispenses medical marijuana to patients may not:

(1) Acquire medical marijuana from an individual or entity in Maryland other than a licensee;

(2) Acquire medical marijuana from outside of Maryland unless authorized by the Commission; or

(3) Transport medical marijuana to any place outside of Maryland.

B. A receiving licensee or licensed grower shall detail in the standard operating procedure the steps set forth in §§C, D and H of this regulation, or their equivalent, and a shipping licensee or licensed grower shall detail in its standard operating procedure the steps set forth in §C—H of this regulation, or their equivalent, to assure:

(1) The integrity of the shipment of products containing marijuana;

(2) The integrity of the electronic manifest and inventory control system; and

(3) The quality of the products in the shipment.

C. Upon arrival of a medical marijuana transport vehicle, the transportation agent shall notify an appropriate registered dispensary agent or registered grower agent to continue the chain of custody of the shipment of products containing marijuana.

D. An agent of the receiving licensee shall:

(1) Log into the electronic manifest;

(2) Take custody of a shipment of products containing marijuana;

(3) Confirm that:

(a) The transportation agent is carrying appropriate identification;

(b) The packaging is secure, undamaged, and appropriately labeled;

(c) Each package in the shipment is labeled as described in the electronic manifest; and

(d) The contents of the shipment are as described in the electronic manifest;

(4) Record the confirmations in the electronic manifest;

(5) Obtain in the electronic manifest the signature of the transportation agent who delivers the shipment;

(6) Record in the electronic manifest the date and time the receiving agent takes custody of the shipment;

(7) Enter the products containing marijuana into the inventory control system;

(8) Segregate the items in the shipment from the stock;

(9) Inspect each item to ensure that the packaging of each item is undamaged, accurate and complete; and

(10) Upon determining the item passes inspection, release the item into the stock.

E. The transportation agent shall provide a copy of the electronic manifest for the shipment to the receiving licensee.

F. The transportation agent shall provide the completed electronic manifest to the shipping licensee.

G. The shipping licensee shall retain the electronic manifest for the shipment for 5 years.

H. Discrepancy in the Shipment.

(1) A discrepancy between the electronic manifest and the shipment, identified by either a transportation agent or a receiving agent, shall be reported by each agent to each agent's supervisor.

(2) If a discrepancy can be immediately rectified, the accepting dispensary supervisor shall record the rectification in the electronic manifest.

(3) A discrepancy that cannot be immediately rectified shall be reported to the Commission by the receiving licensee within 24 hours of the observation of the discrepancy, and an investigation of the discrepancy shall be initiated by the shipping licensee.

(4) The shipping licensee shall submit to the Commission:

(a) Within 7 business days of the observation of the discrepancy, a preliminary report of an investigation of a discrepancy; and

(b) Within 30 business days a final report of the investigation.

.04 Sanitary Storage of Medical Marijuana.

A. A licensee shall maintain the cleanliness of any building or equipment used to store or display medical marijuana.

B. A registered dispensary agent shall:

(1) Comply with the standard operating procedure to maintain the medical marijuana free from contamination; and

(2) Report to a supervisor any personal health condition that might compromise the cleanliness or quality of the medical marijuana the dispensary agent might handle.

C. A licensee shall separately store in the vault until disposed of any medical marijuana:

(1) That is outdated, damaged, deteriorated, misbranded, or adulterated; or

(2) Whose containers or packages have been improperly or accidentally opened.

.05 Equipment Sanitation, Accuracy and Maintenance Logs.

A. The licensee shall maintain the sanitation of equipment that comes in contact with medical marijuana to prevent contamination in accordance with the approved standard operating procedure.

B. The licensee shall ensure that:

(1) Automatic, mechanical, or electronic equipment is routinely calibrated and periodically checked to ensure proper performance; and

(2) Any scale, balance, or other measurement device is routinely calibrated and periodically checked to ensure accuracy.

C. The licensee shall maintain an accurate log recording the:
(1) Cleaning of equipment;
(2) The maintenance of equipment; and
(3) The calibration of equipment.

10.62.21 Licensed Dispensary Packaging and Labeling for Distribution

Authority: Health General Article, §§13–3301 and 13–3310(b)(2)(iii) and (c), Annotated Code of Maryland

.01 Packaging Medical Marijuana for Distribution to a Qualifying Patient or Caregiver.

A. A licensed dispensary may only distribute medical marijuana in a package that complies with the requirements and restrictions of §B—F of this regulation.

B. Packaging Requirements. A package of medical marijuana for distribution to a qualifying patient or caregiver shall:
(1) Be plain;
(2) Be opaque;
(3) If appropriate or requested by a qualifying patient or caregiver, be child-resistant;
(4) Identify the licensee that produced the finished medical marijuana product or that grew the medical marijuana in the package;
(5) Bear a finished-product lot number and an expiration date;
(6) Bear a clear warning that:
(a) The contents may be lawfully consumed only by the qualifying patient named on the attached label;
(b) It is illegal for any person to possess or consume the package or contents other than the qualifying patient; and
(c) It is illegal to transfer the package or contents to any person other than for a caregiver to transfer it to a qualifying patient;
(7) Bear a clear warning to keep the package and its contents away from children;
(8) Bear the Maryland Poison Control Center emergency telephone number;
(9) Bear the telephone number of the licensee to call to report an adverse patient event;
(10) If applicable, bear any allergen warning or nutrition labeling required by law;
(11) If applicable, bear a listing of the non-medical marijuana ingredients;
(12) Bear a conspicuous itemization, including weight, of all cannabinoid and terpenoid ingredients specified for the product; and
(13) Bear a personalized label for the qualifying patient.

C. Packaging Prohibitions. A package of medical marijuana for distribution to a qualifying patient or caregiver may not:
(1) Bear any resemblance to the trademarked, characteristic or product-specialized packaging of any commercially available candy, snack, baked good or beverage;
(2) Bear any statement, artwork or design that could reasonably mislead any person to believe that the package contains anything other an a finished medical marijuana product;
(3) Bear any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe that the product has been endorsed, manufactured, or used by any State, county or municipality or any agency thereof;
(4) Bear any cartoon, color scheme, image, graphic or feature that might make the package attractive to children.

D. Information printed on the package shall be in English, in letters at least one-sixteenth of an inch high.

E. If a statement of the presence of any cannabinoid is expressed as a percentage of the total weight of the package and the concentration of the cannabinoid is less than 1 percent, the percentage shall be written with a leading zero before the decimal point.

F. Medical marijuana may only be prepared or re-packaged at a licensed dispensary in an area of the operations zone designed, maintained, and used exclusively for such purposes.

.02 Label for Distribution to a Qualifying Patient.

A. A licensee shall print a label for a package of medical marijuana for a qualifying patient in English in letters no less than one-sixteenth of an inch high. If requested by a qualifying patient or caregiver, the licensee may also print a label in another language.

B. A licensee may not distribute a package of medical marijuana without a label securely attached.

C. A licensee shall state on a label of a package of medical marijuana:
(1) The name of the qualifying patient;
(2) The name of the certifying physician;
(3) The name of the licensee where the product was dispensed;
(4) The date that the medical marijuana was dispensed;
(5) The name of the product;
(6) The strength of applicable cannabinoid and terpenoid compounds displayed in units appropriate to the dosage form;
(7) The quantity of medical marijuana dispensed, displayed in units appropriate to the dosage form;
(8) Any directions for use of the product; and
(9) The instructions for proper storage or handling of the product.

D. Any other information required by the dispensary at its discretion may be provided in a patient insert.

E. The label may not:
(1) Contain any false or misleading statement or design; or
(2) Include any statement, image or design that may not be included on the package.

10.62.22 Dispensing Medical Marijuana

Authority: Health General Article, §§13–3301 and 13–3310(b)(2)(iii) and (c), Annotated Code of Maryland

.01 Use of Written Certification.

A. A written certification is only valid at a single dispensary for the duration of the certification.

B. A dispensary shall notify the Commission that a qualifying patient or caregiver has presented a written certification at that dispensary.

.02 Visitors and Activities at a Licensed Dispensary.

A. Other than in the waiting area of the public zone of a licensed dispensary, a registered dispensary agent shall:
(1) Escort a member of the public visiting a licensed dispensary; and
(2) Maintain visual contact at all times.

B. A licensed dispensary may not permit the consumption of medical marijuana at the licensed premises.

.03 Procedure for Dispensing Medical Marijuana.

A. A registered dispensary agent shall dispense medical marijuana only to a qualifying patient or caregiver.

B. Before any distribution of medical marijuana, a dispensary agent shall query the Commission data network and verify that:
(1) The qualifying patient or caregiver is currently registered; and
(2) A certifying physician issued a valid written certification to the qualifying patient.

C. A dispensary agent may provide advice on:

(1) The available types of medical marijuana, marijuana varieties, and finished medical marijuana products;

(2) Methods by which medical marijuana can be taken; and

(3) How unused marijuana may be returned for disposal.

D. 30-day Supply.

(1) A qualifying patient or caregiver may obtain a portion of a 30-day supply at any time once the written certification is presented to a licensed dispensary, provided the portion being sought when added to portions previously obtained does not exceed a 30-day supply.

(2) Only the weight attributable marijuana in a medical marijuana-infused product shall count toward a 30-day supply.

E. A registered dispensary agent may decline to dispense medical marijuana to a qualifying patient or caregiver if, in the professional opinion of the registered dispensary agent, the patient or caregiver appears to be currently under the influence of drugs or alcohol.

F. A licensed dispensary may not distribute a sample of medical marijuana.

G. If not used to purchase medical marijuana within 120 days of issuance, a written certification, becomes null and void.

.04 Acknowledgement by Qualifying Patient or Caregiver.

A. Before medical marijuana is dispensed, a qualifying patient or caregiver shall sign an acknowledgement stating that the qualifying patient understands that the qualifying patient is not immune from the imposition of any civil, criminal, or other penalties for the following:

(1) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or boat while under the influence of marijuana;

(2) Smoking marijuana in any public place;

(3) Smoking marijuana in a motor vehicle; or

(4) Undertaking any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice;

(5) Smoking marijuana on a private property that:

(a) Is rented from a landlord; and

(b) Is subject to a policy that prohibits the smoking of marijuana on the property; or

(6) Smoking marijuana on a private property that is subject to a policy that prohibits the smoking of marijuana on the property of an attached dwelling adopted by:

(a) The board of directors of the council of unit owners of a condominium regime; or

(b) The governing body of a homeowners association.

B. Before medical marijuana is dispensed, a qualifying patient or caregiver shall sign an acknowledgement stating that the qualifying patient understands that:

(1) The qualifying patient shall:

(a) Keep all medical marijuana away from children; and

(b) Take steps to prevent children from obtaining or using medical marijuana;

(2) It is illegal to transfer medical marijuana to any person, other than the transfer by a caregiver to a qualifying patient;

(3) Obtaining medical marijuana does not exempt a qualifying patient or caregiver from prosecution under Federal law and the penalties provided by Federal law;

(4) Scientific research has not established the safety of the use of medical marijuana by pregnant women; and

(5) The use of marijuana to treat a medical condition is not approved by the U.S. Food and Drug Administration.

.05 Dispensing Controls.

A. The qualifying patient or caregiver shall sign a receipt for the medical marijuana.

B. The dispensary agent and the qualifying patient or caregiver shall each retain a copy of the receipt.

C. A registered dispensary agent shall record in the inventory control each item or the weight of medical marijuana that was dispensed.

.06 Limit on Transfer of Medical Marijuana.

A licensee or registered dispensary agent may not transfer any medical marijuana to any person if the licensee or registered dispensary agent knows, or should have reason to know, that the transfer or the medical marijuana does not comply with any provision of Chapter 256 of the Acts of 2014, or this subtitle.

.07 Report of Products Offered for Distribution.

A licensee shall submit to the Commission on the first day of every month a list of the products and the products' specifications that the licensee offered for distribution in the previous month.

.08 Disposal of Green Waste.

A licensee may either ship any medical marijuana that is surplus or out of date or that is waste from processing or repackaging:

A. To a licensed grower for disposal; or

B. Dispose of such material in accordance with the licensee's approved waste disposal plan.

10.62.23 Records

Authority: Health General Article, §§13-3301, 13-3306, 13-3309, and 13-3310, Annotated Code of Maryland

.01 Definition.

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

B. Term Defined. "Licensee" means a licensed grower, a licensed processing dispensary, and a licensed dispensary.

.02 Licensee Records.

A. A licensee shall maintain, independent of the inventory control, a searchable, secure, tamper-evident record of each distribution that contains:

(1) The name and address of the recipient;

(2) The quantity delivered; and

(3) The name, strength, batch number and lot number of the product.

B. A licensee shall retain the records of production and distribution of each batch and lot and of daily checklists to maintain uniformity from batch to batch, and lot to lot.

C. A licensee shall maintain a record of test methods and test results for each batch and lot, including graphs, charts, or spectra from laboratory instrumentation.

D. A licensee shall maintain a log of individuals visiting each premises.

E. A licensee shall maintain a duplicate set of all records at a secure, off site location.

.03 Record Retention.

Unless otherwise specified, a licensee, a certifying physician and an academic medical center shall retain a record for a period of 5 years.

10.62.24 Inspection

Authority: Health General Article, §§13-3301, 13-3306, 13-3309, and 13-3310, Annotated Code of Maryland

.01 Definition.

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

B. Term Defined. "Inspector" means any member of the Commission or any State employee or contractor designated by the Commission to carry out an inspection under this chapter.

.02 Consent to Inspection.

Submission of an application to be a licensed grower, licensed processing dispensary, licensed dispensary, or academic medical center compassionate use program irrevocably gives the Commission consent to conduct all inspections necessary to ensure compliance with State law and regulations.

.03 Inspection of Applicants.

A. The Commission may inspect all premises of an applicant to be:

(1) An academic medical center compassionate use program;

(2) A licensed grower;

(3) A licensed processing dispensary; or

(4) A licensed dispensary.

B. The Commission shall inspect all aspects of an applicant's operation to make a determination that the operation conforms to the terms of the application.

C. In the case of an inspection before the issuance of a license, the Commission shall arrange the inspection to take place at a mutually agreeable time.

.04 Announced and Unannounced Inspections.

A. The Commission may conduct announced and unannounced inspections of the facilities of licensed growers, licensed processing dispensaries, and licensed dispensaries subject to the Commission's regulation, mission, and function, to determine compliance with statute and regulations.

B. Failure by a licensed grower or licensed dispensary to provide the Commission with immediate access to any part of a premises, requested material, information, or agent as part of an inspection may result in the imposition of a civil fine, suspension of license, or revocation of license.

C. During an inspection, the Commission may:

(1) Review and make copies of all records;

(2) Enter any place, including a vehicle, in which marijuana is held, dispensed, sold, produced, delivered, transported, manufactured or otherwise disposed of;

(3) Inspect all equipment, raw and processed material, containers and labeling, and all things therein including:

(a) Records;

(b) Files;

(c) Financial data;

(d) Sales data;

(e) Shipping data;

(f) Pricing data;

(g) Employee data;

(h) Research;

(i) Papers;

(j) Processes;

(k) Controls; and

(l) Facilities;

(4) Inventory any marijuana;

(5) Inspect any equipment, instruments, tools or machinery used to process:

(a) Medical marijuana;

(b) Medical marijuana concentrate; or

(c) Medical marijuana-infused product; and

(6) Question personnel present at the location and any agent of the licensee.

.05 Laboratory Testing as Part of Inspection.

A. During an inspection, the Commission may obtain samples for testing of any:

(1) Marijuana;

(2) Medical marijuana concentrate;

(3) Medical marijuana-infused product;

(4) Media used to grow marijuana;

(5) Chemicals or solvents used to process medical marijuana concentrate;

(6) Labels or containers for marijuana;

(7) Paraphernalia;

(8) Any waste material; and

(9) Raw or processed material.

B. If the inspector has grounds to question the quality of any medical marijuana, the inspector may contract with an independent testing laboratory to analyze the samples for any deviation from specification questioned by the inspector.

C. Analysis of marijuana shall conform to the most current version of the Cannabis Inflorescence monograph published by the American Herbal Pharmacopeia (AHP) or a scientifically valid methodology that is equal or superior to that of the AHP monograph.

D. Analysis of other materials shall conform to a scientifically valid methodology for the analysis of such material.

E. A written report of the testing under this regulation shall be provided to the inspector.

.06 Action Upon Findings in Inspection.

In the event that an inspector has reasonable suspicion of an operational failure or of conditions that create a likelihood of diversion, contamination, or a risk to the public health:

A. An inspector may:

(1) Suspend the distribution of some or all medical marijuana from the licensed premises;

(2) Order immediate evacuation of the premises and seal the entry door; or

(3) Quarantine some or all medical marijuana;

B. The Commission shall undertake a review of the inspection findings and may:

(1) Request a recall of the medical marijuana;

(2) Request independent testing of affected medical marijuana;

(3) Approve a procedure to reprocess the medical marijuana;

(4) Notify the Maryland State Police if diversion is suspected; or

(5) Order the destruction of contaminated or substandard medical marijuana; and

C. The inspector or Commission may notify the local fire department or police department, or appropriate regulatory agency, regarding a risk to public health and safety.

.07 Receipt and Chain of Custody for Materials Removed.

The Commission shall leave a receipt and create a documented chain of custody for anything removed in the course of an inspection.

.08 Report of Inspection.

A. An inspector shall:

(1) Prepare a report of:

(a) The observations and findings of the inspection; and

(b) Any suggestions or demands for corrective action;

(2) Deliver a copy of the report to the inspected entity and obtain a receipt for the delivery; and

(3) If possible, discuss the inspection and inspection report with the licensee.

B. If an inspection report contains a suggestion or demand for corrective action, within 10 business days from the delivery of the report, the inspected entity shall:

(1) Respond in writing to every suggestion or demand for corrective action; and

(2) Set forth the plan for corrective action to be taken and the timetable for correction.

C. If an inspector finds evidence of operational failures or conditions that create a likelihood of diversion, contamination, or the risk to public health, an inspector may direct that the licensed premises may not distribute or participate in the distribution of any medical marijuana until the violation has been corrected and the premises pass re-inspection.

10.62.25 Discipline and Enforcement

Authority: Health General Article, §13-3309, Annotated Code of Maryland

.01 Operational Failure Risking Diversion or Endangering Health.

In the event the Commission finds there is a reasonable likelihood of diversion, contamination of medical marijuana, or any risk to the health of a patient or any other individual, after a hearing in accordance with the State Government Article, §§10-201—10-226, Annotated Code of Maryland, the Commission may;

A. Impose a fine of up to $10,000 per violation on a licensed grower;

B. Suspend the license or the approval of the program or licensee; or

C. Revoke the license or the approval of the program or licensee.

.02 Pattern of Deviation from Standard Operating Procedure or Program Requirements.

In the event the Commission finds there is a pattern of deviations from standard operating procedures or the terms set forth in the application or the license but the pattern does not directly create a risk of endangering the health or safety of a patient, after a hearing in accordance with the State Government Article, §§10-201—10-226, Annotated Code of Maryland, the Commission may:

A. Impose a fine of up to $5,000 per violation on a licensed grower;

B. Suspend the license or the approval of the program; or

C. Revoke the license or the approval of the program.

.03 Violation of Requirements.

In the event the Commission finds that a licensee violated a requirement of this subtitle, after a hearing in accordance with the State Government Article, §§10-201—10-226, Annotated Code of Maryland, the Commission may:

A. Impose a fine of up to $5,000 per violation on a licensed grower;

B. Suspend the license or the approval of the program; or

C. Revoke the license or the approval of the program.

10.62.26 Academic Medical Center Program Application Contents

Authority: Health General Article, §§13-3301, 13-3302, and 13-3304—13-3306, Annotated Code of Maryland

.01 Requests for Applications.

The Commission shall:

A. Issue a request at least annually to academic medical centers for applications regarding programs to be considered; and

B. Post details of the application process on the Commission's website.

.02 Medical Conditions.

An academic medical center shall include on the application:

A. A list of the medical conditions to be treated or studied under the program; and

B. The basis of evidence for the use of medical marijuana to treat a specified medical condition.

.03 Patient Inclusion.

A. An academic medical center shall specify on the application the criteria by which a patient may be included in or excluded from a program.

B. A program may include a patient if the patient:

(1) Has been diagnosed with a medical condition being treated or studied under the program; and

(2) Is a resident of the State.

C. A program may include a patient younger than 18 years old if:

(1) The patient's parent or legal guardian has provided written consent; or

(2) The patient is an emancipated minor.

D. Before including a patient in a program, the program shall obtain written acknowledgement from the patient that:

(1) Medical marijuana is being recommended on a trial basis;

(2) Medical marijuana is being recommended to treat or study a specified medical condition;

(3) The dosage of medical marijuana may be altered by the program;

(4) Certain health risks may be associated with the short-term and long-term use of medical marijuana;

(5) Scientific research has not established the safety of medical marijuana use by pregnant women;

(6) Participation in the program does not protect the patient from liability under federal law;

(7) Participation in the program does not authorize use, possession, or transportation of medical marijuana outside of Maryland; and

(8) Inclusion in the program may be suspended or revoked at the program's discretion.

E. Before being included in a program, a patient shall agree to:

(1) Obtain medical marijuana only from a grower directed by the program;

(2) Fully inform the program, on a continuing basis, of any medication, drug, supplement, or other substance being used by the patient;

(3) Submit to monitoring for drug use by urinalysis or other means if required by the program;

(4) Take reasonable steps, as established by the program, to prevent the medical marijuana from being:

(a) Lost;

(b) Stolen;

(c) Used by any unauthorized individual; or

(d) Otherwise diverted; and

(5) Surrender any recalled or unused medical marijuana as directed by the program.

F. A patient shall provide a program with:

(1) The name and contact information for any health care provider treating the patient;

(2) A release directing any health care provider to disclose the patient's:

(a) Medical records;

(b) Substance use disorder treatment records; and

(c) Mental health records to the program; and

(3) An acknowledgement that a health care provider treating the patient may be contacted by the program to:

(a) Verify medical information;

(b) Coordinate patient care; or

(c) Protect the patient from the risks of substance use disorders or drug interactions.

G. A program shall remove from the register of the program any patient when the program determines the use of medical marijuana is no longer warranted.

.04 Addiction Assessment.

A. The academic medical center shall specify on the application how patients will be assessed by the program for a substance use disorder before and during participation in the program.

B. A program shall verify a patient's prescription history before including the patient in the program.

C. Before including a patient with an active substance use disorder in a program, the program shall weigh the risks and benefits of including the patient in the program.

D. If a program includes a patient with an active substance use disorder, the program shall monitor and document the course of the patient's substance use disorder while in the program.

E. A program may choose to exclude a patient because of the patient's history of substance use disorders.

.05 Medical Marijuana Grower or Dispensary.

A. The academic medical center shall specify on the application:

(1) The licensed growers or licensed dispensaries of the medical marijuana to be used by patients participating in the program; and,

(2) Adequate characterization of the medical marijuana sufficient to support the research component of the program.

B. A recommendation for a patient in a program shall only be presented for medical marijuana at the licensed grower or licensed dispensary designated by the program.

.06 Specification of Treatment and Dosage.

A. The academic medical center shall specify on the application the means to determine the length of treatment and dosage permitted under the program.

B. A recommendation provided to a patient participating in a program shall specify:

(1) The type of medical marijuana to be dispensed to the patient;

(2) The quantity of medical marijuana to be dispensed to the patient;

(3) The recommended dosage;

(4) The dosing schedule; and

(5) The method of delivery or means of ingestion.

C. A recommendation shall authorize no more than a 30-day supply of medical marijuana.

D. A recommendation may not be issued without an in-person evaluation by a licensed provider.

E. A program may modify a recommendation at any time as necessary to:

(1) Provide appropriate therapeutic effect to the patient;

(2) Address an adverse drug effect; or

(3) Address a safety issue.

.07 Health Care Providers.

A. The academic medical center shall describe on the application how health care providers will be able to participate in a program.

B. An application shall describe how a program will comprehensively train all staff and health care providers associated with the program on:

(1) The evidentiary basis for the use of medical marijuana;

(2) Types of medical marijuana available in the program;

(3) Appropriate dosages of medical marijuana used in the program;

(4) Methods of delivery or means of ingestion of medical marijuana;

(5) Signs of addiction to marijuana, alcohol, controlled substances, and other drugs of concern;

(6) The conditions of the program participation by patients and caregivers;

(7) The law regarding illicit marijuana and medical marijuana; and

(8) Signs of diversion.

.08 Caregivers.

A. The academic medical center shall include on the application a description of whether and how caregivers will be utilized in the program.

B. In consultation with a patient, a program may designate one or two individuals to serve as a caregiver for the patient.

C. Pursuant to the recommendation provided to a patient, a caregiver may:

(1) Obtain medical marijuana for a patient from the licensed grower or licensed dispensary designated by the program; and

(2) Deliver the medical marijuana directly to the patient.

D. A caregiver may only open a sealed package of medical marijuana in the presence of the patient.

.09 Program Protocol.

A. An academic medical center shall include on the application the program protocol submitted by the academic medical center to its institutional review board.

B. An application may not be considered complete until proof of approval by the institutional review board is submitted by the academic medical center.

.10 Program Evaluation and Gathering Data.

A. An academic medical center shall include on the application the criteria for evaluating the program and monitoring the treatment of patients in the program.

B. A program shall monitor a patient's condition to determine if:

(1) There are any serious adverse events from the medical marijuana;

(2) The delivery method is appropriate; and

(3) Medical marijuana is effective in treating the condition being studied.

C. If the outcome of the adverse event is death, life threatening, hospitalization, disability or permanent damage, congenital anomaly or birth defect, required intervention to prevent permanent impairment or damage, or another important medical event, the program shall report the effect to the Commission within 7 business days.

D. If a serious adverse event is otherwise suspected,

(1) The program shall within 15 business days report the event to the:

(a) Commission; and

(b) Licensed grower or licensed dispensary; and

(2) The program and the licensed grower or licensed dispensary shall review the production of the batch, the batch testing, and submit a sample for re-testing to determine if:

(a) The production procedure was followed;

(b) There was any defect in the batch; and

(c) It is necessary to revise the production procedure.

E. A program is not required to establish a blind or placebo control group to compare patients participating in the program.

F. An academic medical center shall include on the application a plan for:

(1) Monitoring aggregate data and outcomes; and

(2) Publishing results from the program as appropriate.

.11 Program Funding.

A. An academic medical center shall include on the application a description of the sources of funding for the program, including any research grants.

B. An application shall disclose any potential conflicts of interest related to the funding of the program.

.12 Diversion Training and Prevention.

A. An academic medical center shall describe on the application the program's training of health care providers, patients, and caregivers participating in the program on diversion-related issues.

B. The training on diversion-related issues required for health care providers participating in a program shall, at a minimum, cover:

(1) The requirement to prevent diversion of medical marijuana;

(2) How to recognize signs of diversion or a tendency to divert; and

(3) Procedures implemented by the program to prevent and discourage diversion.

C. The program shall train a patient or caregiver on the requirement to prevent diversion.

D. The training shall include information on the criminal penalties for diversion of medical marijuana provided for in:

(1) Health General Article, §13-3309(b), Annotated Code of Maryland; and

(2) The Controlled Dangerous Substances Act, Criminal Law Article, Title 5, Annotated Code of Maryland.

E. An application shall describe the steps an academic medical center will take to prevent and monitor for diversion and address violations of the academic medical center's diversion policy.

.13 Unused Marijuana.

A. An academic medical center shall describe on the application how any unused marijuana will be disposed of.

B. The program shall document the return of or destruction of any unused medical marijuana.

10.62.27 Academic Medical Center Program Application Procedure

Authority: Health General Article, §§13-3301, 13-3302, and 13-3304—13-3306, Annotated Code of Maryland

.01 Initial Application Review.

A. An application to operate a program may be submitted by an academic medical center at any time.

B. Upon receipt of an application, the Commission shall provide a receipt to the academic medical center that indicates if the application is complete or incomplete.

C. Review Team.

(1) The Commission shall appoint a review team to review an application from an academic medical center.

(2) A member of the review team shall disclose any potential conflicts of interest in relation to a particular application.

(3) After an initial review of an application, the review team may ask the Commission for additional resources or support to provide expertise necessary for the review.

.02 Application Review.

A. A review team shall recommend to the Commission whether to approve or reject an application, or suggest a modification to a program, after reviewing the specifications of the program regarding:

(1) The medical conditions to be treated or studied in the program;

(2) The evidentiary basis for treatment;

(3) The quality of the research protocol;

(4) The integrity of systems to control medical marijuana and prevent diversion;

(5) The sufficiency of policies to prevent and address substance use disorders;

(6) The risks and benefits of participation in the program for a potential patient; and

(7) The program's overall:

(a) Feasibility;

(b) Scientific value;

(c) Rigor;

(d) Coherence; and

(e) Methodology.

B. The Commission may adopt or overrule a recommendation to approve or deny an application.

C. If the Commission votes to approve an application, the program shall be approved for 1 year following the date the study commences.

D. At least 14 business days before a program commences, the program shall notify the Commission of the commencement date.

E. The Commission may not approve more than 5 programs to operate at one time.

.03 Program Amendments.

A. Academic medical centers shall submit to the Commission proposed amendments to the program.

B. The Commission shall review and may approve or deny any proposed amendments.

.04 Program Renewal.

A. A program's approval shall expire 1 year after the date of commencement of the program.

B. A program that intends to renew the program's license shall submit an application for renewal to the Commission not less than 90 business days before the program's approval expires.

C. A program may be renewed for an addition term of 1 year if the program:

(1) Is otherwise entitled to renewal;

(2) Pays to the Commission the renewal fee specified in COMAR 10.62.28; and

(3) Submits a renewal application to the Commission on the form the Commission requires.

D. A renewal application that includes modifications of the previous application shall be reviewed pursuant to Regulation .02 of this chapter.

E. A program's approval may not be renewed for a term longer than 1 year.

.05 Approval Rescission.

A. The Commission may rescind approval of a program upon a finding that the program is not in compliance with:

(1) The program's approved application;

(2) Health General Article, §13-3301—13-3311, Annotated Code of Maryland, or any other State law; or

(3) This subtitle.

B. The Commission may rescind approval of a program upon a finding that the program employs an individual with responsibility for storing or securing medical marijuana, issuing a recommendation, or updating patient and caregiver information to the register, if that individual has ever been convicted of a felony drug offense.

.06 Annual Report.

A. A program shall report to the Commission on the operation of the program at the end of a 1-year approval period.

B. A program's report to the Commission shall include:

(1) The total number of patients in the program;

(2) The number of patients in the program by county of residence;

(3) The medical conditions treated in the program;

(4) Data regarding the positive and negative outcomes as a result of treatment;

(5) A compilation of research studies completed or pending in connection with the program; and

(6) The number and nature of adverse events.

10.62.28 Fee Schedule

Authority: Health General Article, §§13-3301, 13-3303, 13-3304, 13-3309, and 13-3310, Annotated Code of Maryland

.01 Fees.

The following fees are established by the Commission:

A. Grower fees:

(1) License as Grower-only:

(a) Application fee — $6,000 (Stage 1: $2,000; Stage 2: $4,000);

(b) Biennial license fee — $250,000 (to be paid in a $125,000 installment each year);

(2) License as Grower and Dispensary:

(a) Application fee — $11,000 (Stage 1: $3,000; Stage 2: $8,000);

(b) Biennial licensing fee — $330,000 (to be paid in a $165,000 installment each year);

B. Grower agent fees:

(1) Registration fee — $200;

(2) Replacement registration card fee — $100;

C. Licensed Dispensary fees:

(1) Application fee — $5,000 (Stage 1: $1,000; Stage 2: $4,000);

(2) Biennial license fee — $80,000 (to be paid in a $40,000 installment each year);

D. Licensed Processing Dispensary fees:

(1) Application fee — $5,000 (Stage 1: $1,000; Stage 2: $4,000);

(2) Biennial license fee — $80,000 (to be paid in a $40,000 installment each year);

E. Dispensary agent fees:

(1) Registration fee — $200;

(2) Replacement registration card fee — $100;

F. Qualifying patient and caregiver fees:

(1) Identification card base fee — $100 or a lesser fee based on need as determined by the Commission;

(2) Replacement identification card — $50 or a lesser fee based on need as determined by the Commission;

G. Academic medical center fees:

(1) Initial application fee — $100;

(2) License fee — $1,000;

(3) Renewal fee — $1,000;

H. Miscellaneous fees:

(1) Transfer of ownership of grower license, processing dispensary license or dispensary license — $7,000; and

(2) Change in the location of grower, processing dispensary or dispensary premises — $7,000.

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

Title 24
DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

Subtitle 05 ECONOMIC DEVELOPMENT

24.05.21 Regional Institution Strategic Enterprise Zone Program

Authority: Economic Development Article, §§2-108, 5-1401—5-1407; Tax Property Article, §9-103.1; Tax General Article, §10-702; Annotated Code of Maryland

Notice of Proposed Action

[15-061-P]

The Secretary of Business and Economic Development proposes to adopt new Regulations **.01—.13** under a new chapter, **COMAR 24.05.21 Regional Institution Strategic Enterprise Zone Program**.

Statement of Purpose

The purpose of this action is to describe the requirements and procedures for qualification as a qualified institution and for the creation of Regional Institution Strategic Enterprise Zones.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The direct economic impact of the proposal is undeterminable. If utilized, the income tax credit could reduce State of Maryland General Fund revenue and Transportation Trust Fund (TTF) revenue through reduction in corporate income taxes and individual income taxes. In addition, if utilized, both the property tax credit and income credit may reduce revenue to local governments in which the RISE Zone is located.

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

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

B. The Act permits businesses which either locate to or expand within a RISE Zone to access tax credits against property taxes and income taxes. Twenty-four percent of corporate income tax revenue is distributed to the Transportation Trust Fund (TTF). Tax credits would reduce this amount. However, the amount of the reduction is dependent upon the establishment of RISE Zones and the amount of credits claimed.

C(1). Local jurisdiction revenues would decrease as a result of tax credit claims against both corporate income taxes and property taxes. Twenty-four percent of corporate income tax revenue is distributed to the TTF. Of the 24 percent transferred to the TTF, approximately 30 percent is distributed to local jurisdictions in the form of local highway user revenues. In addition, property taxes are retained by the local jurisdictions. Tax credits would reduce both types of local revenue. However, the amount of the reduction is dependent upon the establishment of RISE Zones and the amount of credits claimed. Therefore, the amount of the reduction is not determinable.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows. The establishment of a RISE Zone would allow businesses, including small businesses, to qualify for property and income tax credits if they relocate or expand in the RISE Zone. The overall impact on small businesses will be dependent upon the number and size of RISE Zones created and the types of businesses that would qualify for tax credits. Therefore, the economic impact on small businesses is not determinable at this time.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Mark Vulcan, Manager Tax Programs, Department of Business and Economic Development, 401 East Pratt St., Suite 1755 Baltimore, MD 21202, or call 410-767-6438, or email to mark.vulcan@maryland.gov, or fax to 410-333-6931. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Objective.

The objective of the Regional Institution Strategic Enterprise (RISE) Zone Program is to access institutional assets that have a strong and demonstrated history of commitment to economic development and revitalization in the communities in which they are located.

.02 Purpose.

This chapter describes the application requirements and procedures that will be used by the Secretary of Business and Economic Development to designate qualified institutions and RISE Zones.

.03 Scope and Administration.

The Secretary of Business and Economic Development administers the RISE Zone Program. Certain activities are subject to approval by the Secretary of Business and Economic Development, with input from the Legislative Policy Committee. Certain activities will require input from the local jurisdiction in which the RISE Zone is located. The Department of Assessments and Taxation and the Comptroller of the Treasury administer activities related to revenue and taxes.

.04 Definitions.

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

B. Terms Defined.

(1) "Act" means Economic Development Article, Title 5, Subtitle 14, Annotated Code of Maryland.

(2) "Area" means a geographic area in one or more political subdivisions in the State described by a closed perimeter boundary.

(3) "Department" means the Department of Business and Economic Development.

(4) "Institution" means:

(a) A regional higher education center as defined in Education Article, §10-101, Annotated Code of Maryland;

(b) An institution of higher education as defined in Education Article, §10-101, Annotated Code of Maryland; or

(c) A nonprofit organization that is affiliated with a federal agency.

(5) "Nonprofit organization" means an organization that is exempt or eligible for exemption from taxation under §501(C)(3) of the Internal Revenue Code.

(6) "Qualified institution" means an institution that is designated as a qualified institution under Regulation .06 of this chapter.

(7) "Qualified property" has the meaning stated in Tax-Property Article, §9-103.1(A)(6), Annotated Code of Maryland.

(8) "Political subdivision" means any county or municipal corporation.

(9) "RISE Zone" means an area that:

(a) Is targeted for increased economic and community development;

(b) Proximity or Nexus.

(i) Is in immediate proximity to a qualified institution;

(ii) Has a nexus with the qualified institution and its proposed activities; or

(iii) Is a rural area and has a nexus with the qualified institution and its proposed activities;

(c) Meets the requirements of Regulation .08 of this chapter; and

(d) Is designated as a Regional Institution Strategic Enterprise Zone by the Secretary under Regulation .09 of this chapter.

(10) "Secretary" means the Secretary of Business and Economic Development.

.05 Application for Designation as a Qualified Institution.

A. An institution may apply to the Secretary to be designated as a qualified institution.

B. If the applicant is a non-profit organization that is not an institute of higher education, the non-profit must provide documentation that it is affiliated with a federal agency.

C. The application to be designated as a qualified institution shall be in a form approved from time to time by the Department:

D. The applicant shall provide the information and documents required by this regulation and the application form, including:

(1) Evidence of the applicant's intention to:

(a) Make a significant financial investment or commitment in an area of the State that the applicant intends to become a RISE Zone, including:

(i) A description of the projected amount and type of financial investment or commitment the qualified institution intends to make in the area to become a RISE Zone;

(ii) An explanation of why the financial investment or commitment is significant to the area; and

(iii) An explanation of where the financial investment or commitment will be made and for what purpose;

(b) Use the resources and expertise of the applicant to spur economic development and community revitalization in the area the applicant intends to become a RISE Zone, including:

(i) A list of the resources and expertise the applicant has in economic development and community revitalization; and

(ii) An explanation of how the applicant plans to apply its resources and expertise in the area it intends to become a RISE Zone;

(c) Create a significant number of new jobs within the area the applicant intends to become a RISE Zone, taking into account the geographic region and the business sectors located within that region, and including:

(i) An explanation of how the designation of the intended RISE Zone will create new jobs; and

(ii) A discussion of how many jobs and the types of jobs that will be created as a result of the designation of a RISE Zone;

(2) Evidence that demonstrates the applicant's history of community involvement and economic development within the communities that the applicant serves, by providing examples of the institution's involvement in the community or communities and with economic development, including descriptions of:

(a) The community or communities in which the applicant is involved;

(b) The applicant's involvement in the community, including specific programs and community outreach;

(c) The time and financial resources committed by the applicant in the community; and

(d) The outcomes of the applicant's community involvement, including job creation;

(3) Information necessary for the Department to determine if the applicant has the financial qualifications to accomplish its commitments set forth in its application, including:

(a) Evidence that the applicant has sufficient financial resources to make a significant financial investment or commitment in the proposed RISE Zone;

(b) Copies of the applicant's balance sheet and any financial plans or proposed budgets; and

(c) If the applicant intends to rely in whole or in part on fund raising, evidence of previous fund raising ability; and

(4) Any other information or documents required by the Secretary.

E. If the political subdivision in which the proposed RISE Zone is to be located supports the application, the applicant should include a letter of support from the chief executive or governing body of the political subdivision, as may be required by local law. If the intended RISE Zone is located in more than one political subdivision, the applicant should include a letter of support from each political subdivision that supports the intended RISE Zone.

.06 Secretary's Designation of a Qualified Institution.

A. The Secretary shall approve or reject an application of an institution within 90 days after submission of an application for designation as a qualified institution.

B. The Secretary shall notify the Legislative Policy Committee at least 30 days before approval or rejection of an application for designation as a qualified institution.

C. The Legislative Policy Committee may provide advice to the Secretary regarding the approval or rejection of an institution as a qualified institution.

.07 Application for Designation of a RISE Zone Jointly With Political Subdivision.

A. On or after July 1, 2015, application for designation of a RISE Zone may be made to the Department by one or more qualified institutions jointly with a county, a municipal corporation, or the economic development agency of a county or municipal corporation.

B. Unless a municipal corporation located within a county agrees to designation of a RISE Zone within its boundaries, qualified property in the county may not receive a tax credit against the municipal property tax. The applicant shall obtain the consent of the governing body of the municipal corporation in the form of a resolution.

C. Unless a county, in which a municipal corporation is located, agrees to designation of a RISE Zone in the municipal corporation, qualified property in the municipal corporation may not receive a tax credit against county property tax. The applicant shall obtain the consent of the governing body of the county in the form of a resolution.

D. All applications shall be complete, meet all stated requirements, and be properly signed by the chief elected, executive official or, if none, by the governing body of, each of the political subdivisions applying with the qualified institution.

E. Any modification to the boundaries of an existing RISE Zone must be approved by each applicant for the initial designation of the RISE Zone.

.08 Application Requirements for Designation of a RISE Zone.

The RISE Zone application shall include the following:

A. A detailed description of the boundaries of the proposed RISE Zone, including:

(1) Both a hard copy and digital map of the proposed RISE Zone;

(2) The acreage of the proposed RISE Zone;

(3) A map showing any overlap of the proposed RISE Zone with an existing enterprise zone or focus area; and

(4) A statement from the planning departments of each political subdivision joining in the application that the boundaries of the proposed RISE Zone do not overlap a development district established under Economic Development Article, Title 12, Subtitle 2, Annotated Code of Maryland, or a special taxing district established under Local Government, Article, Title 21, Annotated Code of Maryland or The Charter of Baltimore City, §62A.

B. A description of the nexus of the proposed RISE Zone with the qualified institution. If the proposed RISE Zone is not in immediate proximity to the qualified institution, an explanation of the connection between the qualified institution, its proposed activities, and the proposed RISE Zone.

C. If the proposed RISE Zone is in a rural area of the State, a description of the nexus between the qualified institution, its proposed activities, and the area of the proposed RISE Zone.

D. Evidence and certification that each political subdivision, before submission of the application, held a public hearing on the application with adequate notice.

E. Copies of resolutions from the political subdivisions approving the real property tax credit and specifying the credit percentage each year for the 5-year period.

F. A plan that contains a target strategy and anticipated economic impacts of the RISE Zone, which plan shall include:

(1) A description of existing demographic and socioeconomic character of the proposed RISE Zone;

(2) A description of how the area is of strategic importance to the economic development interests of the applicants, including a list of other revitalization programs applicable to the area, such as enterprise zones, sustainable communities, Priority Funding Areas (PFA), and Maryland Department of Transportation designated Transit Oriented Development (TOD) areas;

(3) A statement of the goals and objectives of the proposed RISE Zone;

(4) A description of proposed projects to be developed in the proposed RISE Zone;

(5) A timeline of development and activity in the proposed RISE Zone;

(6) The expected economic impact of the designation on the area, including anticipated capital investment resulting from the designation, projected number, type, and salary ranges of jobs to be created, and projected number of new establishments to locate in the proposed RISE Zone;

(7) The industry sectors that will be certified for RISE Zone incentives;

(8) The requirements for existing businesses that are located in a RISE Zone prior to the RISE Zone designation to be certified for RISE Zone incentives, including a discussion of the significance of these requirements to the area, which requirements must include:

(a) Minimum capital investment; or

(b) Minimum increase in labor force;

(9) A description of workforce training programs that may be available in the proposed RISE Zone area;

(10) The point of contact for the RISE Zone and entity responsible for certifying to the Department if the business is eligible for RISE Zone incentives and for submitting an annual report to the Department; and

(11) A description of the local process for certifying businesses as eligible for the RISE Zone incentives.

G. Any other information the Secretary requires.

.09 RISE Zone General Requirements.

A. The designation of a RISE Zone is effective for 5 years.

B. The Secretary may not approve more than three RISE Zones in a single political subdivision.

C. The Secretary may not designate a RISE Zone in the following areas:

(1) A development district established under Economic Development Article, Title 12, Subtitle 2, Annotated Code of Maryland; or

(2) A special taxing district established under Local Government Article, Title 21, Annotated Code of Maryland, or The Charter of Baltimore City, §62A.

D. The designation of an area as a RISE Zone may not be construed to limit or supersede a provision of a comprehensive plan, zoning ordinance, or other land use policy adopted by a political subdivision or bicounty agency with land use authority over the area designated as a RISE Zone.

.10 Secretary's Designation of a RISE Zone.

A. The Secretary shall approve or reject an application for designation of a RISE Zone, including approval or modification of the proposed boundaries of the RISE Zone, within 120 days after the submission of the application.

B. The Secretary shall notify the Legislative Policy Committee at least 45 days before approval or rejection of the application.

C. The Legislative Policy Committee may provide advice to the Secretary regarding the approval or rejection of the RISE Zone or the boundaries of the RISE Zone proposed by the Secretary.

D. The Secretary may consult with the Maryland Department of Planning and other State agencies before the designation of a RISE Zone.

.11 Renewal of RISE Zones.

A. The Secretary may renew a RISE Zone for an additional 5 years upon joint application by the entities that applied for the original RISE Zone designation.

B. To apply for renewal, the entities that applied for the original RISE Zone designation shall file a complete application, which shall include:

(1) An analysis of whether the goals and objectives of the target strategy were met;

(2) An analysis of the success and outcomes of the designation, including the number of jobs created, total and type of capital investment made, the number of new businesses locating to the RISE Zone, and any other information that demonstrates success;

(3) A description of how the qualified institution met the goals specified in the qualified institution's application for qualified institution designation; and

(4) A discussion of what would be achieved by renewing the RISE Zone for an additional 5-year period.

.12 Annual Report.

The person or entity identified in the target strategy for preparing the annual report shall submit an annual report to the Department on a calendar year basis by April 15 of the following year, in the form and containing the information established by the Secretary.

.13 Waiver.

The Secretary may waive or vary particular provisions of this chapter to the extent that a waiver is not inconsistent with the Act if:

A. Conformance to this requirement of any federal, State, or local program necessitates waiver or variance of a regulation; or

B. In the determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

DOMINICK E. MURRAY
Secretary of Business and Economic Development

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Notice of Proposed Action

[15-074-P]

The Secretary of the Environment proposes to:

(1) Amend Regulations **.03** and **.05** under **COMAR 26.13.01 Hazardous Waste Management System: General**;

(2) Amend Regulations **.03**, **.04**, **.16**, and **.17**, and adopt new Regulations **.04-6**, **.19-6**, **.19-7**, **.19-8**, and **.25** under **COMAR 26.13.02 Identification and Listing of Hazardous Waste**; and

(3) Amend Regulation **.11** under **COMAR 26.13.10 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities**.

Statement of Purpose

The purpose of this action is to modify the State's hazardous waste regulations to incorporate various provisions that have been promulgated at the federal level by the U.S. Environmental Protection Agency (EPA). Specifically, the following actions are being proposed:

(1) Addition of requirements concerning cathode ray tubes (CRTs) being recycled, including management standards, clarification of the circumstances under which such materials are subject to regulation as solid waste and hazardous waste, and requirements concerning exports to foreign countries;

(2) Clarification of the status under the hazardous waste regulations of dredged material, that is, material that is excavated or dredged from waters of the United States;

(3) Exemption of a particular waste from motor vehicle manufacturing from being regulated as hazardous waste provided the waste is managed in accordance with specified requirements; and

(4) Incorporation by reference into the State's hazardous waste regulations of a list of various wastes that EPA has "delisted" from the lists of regulated hazardous wastes.

In addition, a State-initiated change is being proposed concerning universal waste, a category of hazardous waste. The proposed provision would require persons who accept universal waste from off-site locations to notify the Maryland Department of the Environment of that activity unless the amount of universal waste at the site never exceeds 500 kilograms.

Comparison to Federal Standards

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

COMAR 26.13.10.11C(3): the proposed provisions require persons who accept "universal waste" from off-site to notify the Maryland Department of the Environment (MDE) that they are engaged in such activity.

(2) Benefit to the public health, safety or welfare, or the environment:

Currently, a universal waste handler may accumulate up to 5,000 kilograms of universal waste without having to notify MDE that the handler is managing universal waste. The proposed notification requirement would alert MDE to the operations of persons accepting universal waste from off-site, allowing MDE to more easily target such operations for compliance inspections.

(3) Analysis of additional burden or cost on the regulated person:

The additional burden or cost on the regulated person is minimal, since all that is required is a written, one-time notification. Persons below a small quantity threshold are not required to notify, and are also not required to notify if they have previously notified MDE that they conduct hazardous waste management activities at the site.

(4) Justification for the need for more restrictive standards:

Currently, there is no easy way to identify persons accepting universal waste from off-site, and, consequently, no easy way to target this sector for compliance evaluations. Instituting a notification requirement will allow for better regulatory oversight of hazardous waste management activities, encourage compliance with management standards for universal waste, and help bring violators into compliance with hazardous waste requirements.

Estimate of Economic Impact

I. Summary of Economic Impact. The economic impact of the proposed action is expected to be minimal. Some elements of the proposal will result in savings to affected industries, but the impact is expected to be small, since the proposed conditional exclusion of a particular waste from being regulated as hazardous waste affects only a small number of generators. The requirements concerning CRTs may increase costs of managing CRTs collected for recycling, but the increase is expected to be minimal, since the new requirements are consistent with routine procedures for maintaining business records and best management practices for handling hazardous materials.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) CRT provisions	(-)	Minimal—not quantifiable
(2) F019 conditional exclusion	(+)	Not quantifiable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Not quantifiable

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

A. The proposed amendments will be able to be implemented using existing resources.

B. Other State agencies are not generally engaged in the activities affected by the proposed amendments.

C. Local governments are not generally engaged in the activities affected by the proposed amendments.

D(1). Persons who manage CRTs destined for recycling would incur some costs associated with record keeping and materials management, but these are expected to be minimal. The record keeping requirements are consistent with routine business practices, and the management requirements are consistent with best management practices for hazardous materials.

D(2). Certain wastes would not have to be managed as hazardous wastes under the proposal, but the exclusion only applies to a limited number of waste generators.

F. The public will benefit by there being better management of hazardous waste through compliance with the proposed requirements, reducing the likelihood of releases of hazardous waste which could impact public health and the environment.

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 Edward Hammerberg, Technical Specialist/RCE Supervisor, Maryland Dept. of the Environment, Waste Diversion and Utilization Program, 1800 Washington Blvd., Suite 610, Baltimore, MD 21230-1719, or call 410-537-3356, or email to ed.hammerberg@maryland.gov, or fax to 410-537-3321. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

26.13.01 Hazardous Waste Management System: General

Authority: Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

(5-1-1) "Cathode ray tube (CRT)" means a vacuum tube, composed primarily of glass, that is the visual or video display component of an electronic device.

(5-1-2) "Cathode ray tube (CRT) collector" means a person who receives used, intact CRTs for recycling, repair, resale or donation.

(5-1-3) "Cathode ray tube (CRT) exporter" means any person in the United States who initiates a transaction to send used CRTs outside the United States and its territories for recycling or reuse, or any intermediary in the United States arranging for export of used CRTs to a location outside the United States and its territories for recycling or reuse.

(5-1-4) "Cathode ray tube (CRT) glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

(5-1-5) "Cathode ray tube (CRT) processing" means conducting together all of the following activities:

(a) Receiving broken or intact CRTs;

(b) Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

(c) Sorting or otherwise managing glass removed from CRT monitors.

(5-1)—(17) (text unchanged)

(17-1) "EPA" means the United States Environmental Protection Agency.

[(17-1)**]** *(17-2)* (text unchanged)

(18)—(90) (text unchanged)

(90-1-1) "Used, broken cathode ray tube (CRT)" means a CRT for which the glass has been removed from its housing or casing and from which the vacuum has been eliminated.

(90-1-2) "Used, intact cathode ray tube (CRT) means a CRT from which the vacuum has not been eliminated.

(90-1)—(96) (text unchanged)

.05 Incorporation by Reference.

A. (text unchanged)

B. Incorporation of Federal Regulations by Reference.

(1) As qualified by §B(2) of this regulation, certain federal regulations are incorporated by reference as follows:

(a) When used in COMAR 26.13.05, 40 CFR §§144.3 and 264.140—264.151 as of July 1, **[**2007**]** *2014*, are incorporated by reference;

(b) When used in COMAR 26.13.06, the federal regulations as of July 1, **[**2007**]** *2014*, in 40 CFR §§265.90—265.94, 265.140—265.148, 265.270—265.282, 265.340—265.351, 265.370—265.382, and 265.400—265.406 are incorporated by reference;

(c) When used in COMAR 26.13.01—26.13.10, the federal regulations as of July 1, **[**2007**]** *2014*, in 40 CFR Part 264, Appendix IX Ground Water Monitoring List, 40 CFR Part 261, Appendix III Chemical Analysis Test Methods, and 49 CFR 173, 178, and 179 are incorporated by reference; **[**and**]**

(d) When used in COMAR 26.13.03.07-5, the federal regulations as of July 1, **[**2007**]** *2014*, in 40 CFR §§262.81—262.89 are incorporated by reference**[**.**]***; and*

(e) When used in COMAR 26.13.02, Appendix IX of 40 CFR Part 261, as amended, is incorporated by reference.

(2) (text unchanged)

C. (text unchanged)

26.13.02 Identification and Listing of Hazardous Waste

Authority: Environment Article, §6-905.3 and Title 7, Subtitle 2, Annotated Code of Maryland

.03 Definition of Hazardous Waste.

A. A solid waste, as defined in Regulation .02 of this chapter, is a hazardous waste if:

(1) (text unchanged)

(2) It meets any of the following criteria:

(a) (text unchanged)

(b) It is listed in Regulations .15—.19 *of this chapter* and has not been excluded from the lists by*:*

(i) COMAR 26.13.01.04A and C**[**.**]** *;*

(ii) Regulation .16A(1) of this chapter; or

(iii) Regulation .17A(1) of this chapter;

(c) It is a mixture of solid waste and a hazardous waste that is listed in this chapter solely because it exhibits one or more of the characteristics of ignitability, corrosivity, or reactivity identified in Regulations .11—.13 of this chapter unless the:

(i) (text unchanged)

(ii) Solid waste is excluded from regulation under Regulation .04-1A(7) of this chapter and the resultant mixture no longer exhibits any characteristic of hazardous waste identified in this chapter for which the hazardous waste in the mixture was listed in this chapter**[**.**]***;*

(d) It is a mixture of solid waste and one or more hazardous wastes listed in this chapter and has not been excluded from being regulated as a hazardous waste under COMAR 26.13.01.04 or §A(2)(c), A-2, *or* F**[**, or G**]** of this regulation**[**.**]** *or*

(e) (text unchanged)

A-1.—F. (text unchanged)

.04 Materials Which Are Not Solid Wastes.

A. The following materials are not solid wastes for the purpose of this chapter:

(1)—(16) (text unchanged)

(17) Petrochemical recovered oil from an associated organic chemical manufacturing facility that is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refining process streams, subject to the following:

(a)—(c) (text unchanged)

(d) Before the oil generated by the organic chemical manufacturing facility is recycled into the petroleum refining process, it is not:

(i) (text unchanged)

(ii) Accumulated speculatively as defined in Regulation .01C(3)(l) of this chapter; **[**and**]**

(18) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic acid or naphthenic acid if the spent caustic solutions are not:

(a) (text unchanged)

(b) Accumulated speculatively as defined in Regulation .01C(3)(l) of this chapter**[**.**]***; and*

(19) A used cathode ray tube (CRT) under the following conditions:

(a) A used, intact CRT, as defined in COMAR 26.13.01.03B, that is within the United States and that has not been:

(i) Disposed; or

(ii) Accumulated speculatively, as defined in Regulation .01C(3)(l) of this chapter, by a CRT collector or a facility engaged in CRT processing;

(b) A used, intact CRT that is being exported for recycling, if it is managed in accordance with the requirements of Regulation .19-8A of this chapter;

(c) A used, broken CRT as defined in COMAR 26.13.01.03B, if it is managed in accordance with the requirements of Regulations .19-6 and .19-7 of this chapter; and

(d) Glass removed from a CRT if it is managed in accordance with the requirements of Regulation .19-6D of this chapter.

B.—C. (text unchanged)

.04-6 Dredged Material That Is Not a Hazardous Waste.

A. Dredged material, as defined in §B of this regulation, is not a hazardous waste if the dredged material:

(1) Is subject to the requirements of a permit issued by:

(a) The U.S. Army Corps of Engineers or an approved state under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. §1344); or

(b) The U.S. Army Corps of Engineers under Section 103 of Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. §1413); or

(2) Is:

(a) Generated in connection with a U.S. Army Corps of Engineers civil works project; and

(b) Subject to the administrative equivalent of the permits referred to in §A(1) of this regulation, as provided for in the regulations of the U.S. Army Corps of Engineers, such as 33 CFR §336.1, 33 CFR §336.2 and 33 CFR §337.6.

B. For the purposes of this regulation:

(1) "Dredged material" means material that is excavated or dredged from waters of the United States; and

(2) "Waters of the United States" has the meaning given in 40 CFR §232.2.

.16 Hazardous Waste from Nonspecific Sources.

A. As qualified by §§B *and D* of this regulation, the **[**following**]** solid wastes *listed in the "Hazardous Waste" column of Table 1 of this regulation* are listed as hazardous wastes from nonspecific sources unless they are excluded under*:*

(1) 40 CFR §260.20 and 40 CFR §260.22, listed in Appendix IX to 40 CFR Part 261, and referenced in Regulation .25 of this chapter;

(2) COMAR 26.13.01.04A and C and listed in Regulation .26 of this chapter**[**, or they are excluded under**]**; *or*

*(3) §*C *or D* of this regulation:

TABLE 1 — Hazardous Waste from Nonspecific Sources

Industry	*EPA Hazardous Waste Number*	*Hazardous Waste*	*Hazard Code*
Generic	F001—F015	(text unchanged)	
	F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except *for wastewater treatment sludges* from*: (1)* zirconium phosphating in aluminum can washing when this phosphating is an exclusive conversion coating process*; or (2) the manufacturing of motor vehicles using a zinc phosphating process when the provisions of §D(1) of this regulation are met*	(T)
	F020—F039	(text unchanged)	

*(I,T) should be used to specify mixtures containing ignitable and toxic constituents.

B. Clarifications for Listing of Wastes from Nonspecific Sources – *Hazardous Waste Numbers F037 and F038.*

(1)—(5) (text unchanged)

C. Deletion of **[**Certain**]** *the F032* Hazardous Waste **[**Codes**]** *Code* Following Equipment Cleaning and Replacement.

(1)—(3) (text unchanged)

D. Hazardous Waste Number F019 – Conditional Exemption and Record Keeping for Waste Generated in Manufacturing Motor Vehicles.

(1) Wastewater treatment sludges from the chemical conversion coating of aluminum are not considered Hazardous Waste Number F019 under §A of this regulation at the point of generation if:

(a) The sludges are derived from the use of a zinc phosphating process in the manufacturing of:

(i) Automobiles; or

(ii) Light trucks or utility vehicles, such as light duty vans, pickup trucks, minivans, and sport utility vehicles;

(b) The facility where the sludges are generated is engaged in manufacturing:

(i) Complete vehicles of either unibody construction or body and chassis construction; or

(ii) Vehicle chassis;

(c) The sludges are disposed off site in a landfill that is permitted, licensed or otherwise authorized to accept the waste;

(d) The landfill in which the sludges are disposed is either:

(i) A municipal or industrial solid waste landfill that is regulated under Subtitle D of RCRA or equivalent state authority, and is equipped with a single clay liner; or

(ii) A landfill that is subject to and meets the requirements of COMAR 26.04.07.07C(12), COMAR 26.04.07.19C(2), COMAR 26.13.05.14B, COMAR 26.13.06.22C, 40 CFR §258.40, 40 CFR §264.301, or 40 CFR §265.301, or equivalent state requirements;

(e) The sludges are not placed outside on the land before shipment off site to a landfill for disposal.

(2) A person who generates sludge exempted from being regulated as Hazardous Waste Number F019 under §D(1) of this regulation shall maintain, on site:

(a) Documentation and information sufficient to prove that the requirements of §D(1)(a)—(e) of this regulation have been met, including:

(i) The volume of sludge generated and disposed off site;

(ii) Documentation showing when the waste volumes were generated and sent off site;

(iii) The name and address of the receiving facility; and

(iv) Documentation confirming receipt of the waste by the receiving facility; and

(b) The records required by §D(2)(a) of this regulation for at least 3 years, with the required retention period extended:

(i) Automatically during the course of any enforcement action; or

(ii) As required by the Secretary or the Regional Administrator of Region 3 of the EPA.

.17 Hazardous Waste from Specific Sources.

A. As qualified by §B of this regulation, the following solid wastes are listed as hazardous wastes from specific sources unless they are excluded under*:*

(1) 40 CFR §260.20 and 40 CFR §260.22, listed in Appendix IX to 40 CFR Part 261, and referenced in Regulation .25 of this chapter; or

(2) COMAR 26.13.01.04A and C and listed in Regulation .26 of this chapter:

Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
Wood Preservation — Military	(text unchanged)		

B. (text unchanged)

.19-6 Conditional Exclusion—Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

A. General.

(1) This regulation establishes conditions that shall be met in order for the following materials to be excluded from the definition of solid waste when the materials are undergoing recycling:

(a) A used, broken cathode ray tube (CRT); and

(b) Processed CRT glass.

(2) Use Constituting Disposal. If a used, broken CRT or glass from a used CRT is going to be recycled by being used in a manner constituting disposal, as described in Regulation .02C(1)(a)(i) and (ii) of this chapter, the used, broken CRT or glass from a used CRT shall be managed in accordance with the requirements of COMAR 26.13.10.01 rather than the requirements of this regulation.

(3) Speculative Accumulation. A used, broken CRT or glass from a used CRT that is accumulated speculatively, as described in Regulation .01C(3)(l) of this chapter, is a solid waste when recycled unless otherwise excluded from the definition of solid waste by Regulation .02 of this chapter.

(4) Management Requirements. Requirements concerning:

(a) Management of used, broken CRTs before processing are established in §B of this regulation;

(b) Exports of broken CRTs are established in Regulation .19-7 of this chapter, including requirements on notification of intent to export and consent of the receiving country;

(c) Processing used, broken CRTs are established in §C of this regulation; and

(d) Processed CRT glass are established in §D of this regulation.

B. Management before Processing. In order for a used, broken CRT that is undergoing recycling to be excluded from the definition of solid waste under Regulation .04A(19)(c) of this chapter the following conditions shall be met:

(1) The used, broken CRT shall be:

(a) Stored in a building with a roof, floor and walls; or

(b) Placed in a container, that is, a package or a vehicle, that is constructed, filled, and closed to minimize releases to the environment of CRT glass, including fine solid materials;

(2) The container, that is, the package or vehicle, that constitutes the primary containment for the used, broken CRT shall be labeled or clearly marked with the following phrases:

(a) Either:

(i) "Used cathode ray tube(s)—contains leaded glass"; or

(ii) "Leaded glass from televisions or computers"; and

(b) "Do not mix with other materials";

(3) The used, broken CRT shall be transported in a container that meets the requirements of §B(1)(b) and §B(2) of this regulation; and

(4) The used, broken CRT may not be:

(a) Used in a manner constituting disposal, as described in §A(2) of this regulation; or

(b) Accumulated speculatively, as described in §A(3) of this regulation.

C. Requirements for Used CRT Processing. In order for a used, broken CRT that is undergoing cathode ray tube processing as defined in COMAR 26.13.01.03B to be excluded from the definition of solid waste under Regulation .04A(19)(c) of this chapter, the following requirements shall be met:

(1) A used, broken CRT that a processor has accepted for processing and that is being held before beginning the processing activities identified in §C(2)(a) of this regulation:

(a) Shall be stored in a building with a roof, floor and walls; or

(b) If stored somewhere other than a building with a roof, floor and walls, shall be stored in a container, that is, a package or a vehicle, that is constructed, filled, and closed to minimize releases to the environment of CRT glass, including fine solid materials;

(2) The used, broken CRT shall be processed in accordance with the following requirements:

(a) The following activities shall be performed in a building with a roof, floor and walls:

(i) Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

(ii) Sorting or otherwise managing glass removed from CRT monitors; and

(b) No activities may be performed that use temperatures high enough to volatilize lead from CRTs; and

(3) The used, broken CRT may not be:

(a) Used in a manner constituting disposal, as described in §A(2) of this regulation; or

(b) Accumulated speculatively, as described in §A(3) of this regulation.

D. Requirements for Processed CRT Glass. Glass from used CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is accumulated speculatively as described in Regulation .01C(3)(l) of this chapter.

.19-7 Exports—Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

A. General.

(1) This regulation establishes requirements concerning exports of used, broken CRTs being recycled that must be met in order for the used, broken CRTs to be excluded from the definition of solid waste.

(2) The requirements of this regulation are in addition to the requirements of Regulation .19-6 of this chapter.

(3) Processed CRT glass, that is, CRT glass that has been sorted or otherwise managed under the definition of CRT processing in COMAR 26.13.01.03B, is not subject to the export notification requirements of this regulation.

(4) Unsorted CRT glass is considered to be a used, broken CRT for the purposes of this regulation.

(5) The export of used, broken CRTs for recycling is prohibited unless:

(a) The receiving country consents to the intended export, as provided in §D(4) of this regulation;

(b) Except as provided in §A(6) of this regulation, the receiving country consents to any subsequent changes to the conditions specified in the original notification of the intended export, as provided in §§C(3) and D(4) of this regulation; and

(c) Each shipment of the CRTs:

(i) Is accompanied by a copy of the Acknowledgement of Consent to Export CRTs provided under §D(4) of this regulation; and

(ii) Conforms to the terms of the Acknowledgement of Consent to Export CRTs.

(6) The consent of the receiving country to a subsequent change to a condition in a notification of an intended export that is otherwise required by §A(5)(b) of this regulation is not required for changes to information about:

(a) Points of entry and departure provided under §B(4)(d) of this regulation; or

(b) Transit countries provided under §B(4)(j) of this regulation.

(7) If, for any reason, a shipment of CRTs cannot be delivered to the recycler or the alternate recycler that the exporter identified in the notification made under §B or C of this regulation, the exporter shall do the following in order for the shipment to be allowed to be sent to a new recycler:

(a) Submit a subsequent notification to EPA as described in §C of this regulation identifying the new recycler to whom the CRTs will be sent; and

(b) Obtain another Acknowledgement of Consent to Export CRTs for the shipment, as provided in §D(4) of this regulation.

(8) Record Retention. An exporter shall keep copies of:

(a) Notifications submitted under §§B and C of this regulation for a period of 3 years following receipt of the Acknowledgement of Consent to Export CRTs associated with the notifications; and

(b) Acknowledgements of Consent to Export CRTs for a period of 3 years following receipt of the Acknowledgement.

B. Initial Notification Requirement.

(1) An exporter of used, broken CRTs shall notify EPA, in writing, of an intended export before the CRTs are scheduled to leave the United States, with the notification to be made in accordance with the requirements of §B(2)—(4) of this regulation.

(2) A notification submitted to fulfill the requirement of §B(1) of this regulation may cover export activities extending over a period of up to 12 months.

(3) An exporter complying with the notification requirement of §B(1) of this regulation shall:

(a) Submit a complete notification to EPA at least 60 days before the initial shipment is intended to be shipped off-site;

(b) Sign the notification;

(c) Include in the notification the information identified in §B(4) of this regulation;

(d) Submit the notification to EPA as described in 40 CFR §261.39(a)(5)(ii); and

(e) Upon request by EPA, furnish to EPA any additional information that a receiving country requests in order to respond to a notification provided to the receiving country by EPA.

(4) An exporter of used, broken CRTs shall include the following information in the notification required by §B(1) of this regulation:

(a) The name, mailing address, telephone number and EPA ID number, if applicable, of the exporter of the CRTs;

(b) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported;

(c) The estimated total quantity of CRTs to be exported, specified in kilograms;

(d) All points of entry to and departure from each foreign country through which the CRTs will pass;

(e) A description of the means by which each shipment of the CRTs will be transported, such as whether transport will be by air, highway, rail or water;

(f) A description of how the shipments will be contained, such as in drums, boxes or tanks;

(g) The name and address of the recycler or recyclers and any alternate recycler or recyclers;

(h) The estimated quantity of used CRTs to be sent to each facility;

(i) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs; and

(j) The name of any transit country through which the CRTs will be sent, a description of the approximate length of time the CRTs will remain in the transit country, and the nature of their handling while there.

C. Subsequent Notification.

(1) Except as provided in §C(2) of this regulation, if there is a change in the conditions specified in a notification of an intended export that was submitted under §B of this regulation, the exporter shall provide EPA with a notification of the change, submitting the notification as described in 40 CFR §261.39(a)(5)(ii).

(2) The subsequent notification described in §C(1) of this regulation is not required if the change only involves a change to the telephone number required by §B(4)(a) of this regulation, a decrease in the estimate of the quantity of CRTs to be exported that was provided under §B(4)(c) of this regulation, or both.

(3) The subsequent notification required by §C(1) of this regulation will be processed by EPA in the same manner as an initial notification required by §B(1) of this regulation, as described in §D of this regulation.

D. EPA Responsibilities Concerning Export Approvals.

(1) This section describes EPA's responsibilities with respect to export approvals for used, broken CRTs, which are established in 40 CFR §261.39(a)(5)(iv) and (v) and are not delegable to states.

(2) EPA will provide a notification of an intended export that is complete, as defined in §D(3)(a) of this regulation, to the receiving country and any transit countries.

(3) For the purposes of §D(2) of this regulation:

(a) A notification of an intended export is complete when EPA has received the notification and determined that it satisfies the requirements of §B(2) and B(3) of this regulation; and

(b) If a claim of confidentiality is asserted with respect to any notification information required by §B(2) or B(3) of this regulation, EPA may make a determination that the notification is not complete pending resolution of the claim in accordance with 40 CFR §260.2.

(4) If a country identified as the receiving country for broken CRTs consents, in writing, to the receipt of the CRTs, EPA will forward an Acknowledgement of Consent to Export CRTs to the exporter.

(5) If a country identified as the receiving country for broken CRTs objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing.

(6) EPA will notify the exporter of any responses EPA receives from transit countries concerning a notification of an intended export.

E. Annual Report.

(1) No later than March 1 of each year, a CRT exporter shall file a report with EPA that:

(a) Summarizes, for all used CRTs that were exported by the exporter during the previous calendar year, the:

(i) Quantities, in kilograms, exported;

(ii) Frequency of shipment; and

(iii) Ultimate destination or destinations, that is, the facility or facilities, where the recycling occurs; and

(b) Includes the following:

(i) The exporter's name, EPA ID number, if applicable, mailing address and site address;

(ii) The calendar year covered by the report; and

(iii) A certification that states, "I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in this and all attached documents and that,

based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(2) A CRT exporter shall:

(a) Submit the report required by §E(1) of this regulation to the office specified in 40 CFR §261.39(a)(5)(ii); and

(b) Keep a copy of each annual report for a period of at least 3 years from the due date of the report.

.19-8 Used, Intact Cathode Ray Tubes (CRTs) Exported for Recycling or Reuse.

A. A used, intact CRT exported for recycling is not a solid waste if the used, intact CRT:

(1) Is managed in accordance with the requirements concerning notice and consent that apply to used, broken CRTs in Regulation .19-7A(5)—(7) and B—D of this chapter; and

(2) Is not "accumulated speculatively" as described in Regulation .01C(3)(l) of this chapter.

B. Notification.

(1) A CRT exporter who exports used, intact CRTs for reuse shall notify EPA in writing of the intended export before the CRTs leave the United States, with the notification to be made in accordance with the requirements of §B(2)—(3) of this regulation;

(2) A notification submitted to fulfill the requirement of §B(1) of this regulation may cover export activities extending over a period of up to 12 months.

(3) A CRT exporter complying with the notification requirement of §B(1) of this regulation shall:

(a) Sign the notification;

(b) Include the following information in the notification:

(i) The name, mailing address, telephone number, and EPA ID number, if applicable, of the exporter of the used, intact CRTs;

(ii) The estimated frequency or rate at which the used, intact CRTs are to be exported for reuse and the period of time over which they are to be exported;

(iii) The estimated total quantity of used, intact CRTs specified in kilograms;

(iv) All points of entry to and departure from each transit country through which the used, intact CRTs will pass, a description of the approximate length of time the used, intact CRTs will remain in such country, and the nature of their handling while there;

(v) A description of the means by which each shipment of the used, intact CRTs will be transported, such as the mode of transportation, that is, air, highway, rail, water, and the type or types of containers to be used, such as drums or boxes;

(vi) The name and address of the ultimate destination facility or facilities where the used, intact CRTs will be reused, refurbished, distributed, or sold for reuse and the estimated quantity of used, intact CRTs to be sent to each facility, as well as the name of any alternate destination facility or facilities;

(vii) A description of the manner in which the used, intact CRTs will be reused, including reuse after refurbishment, in the foreign country that will be receiving the used, intact CRTs; and

(viii) A certification signed by the CRT exporter that states, "I certify under penalty of law that the CRTs described in this notice are intact and fully functioning or capable of being functional after refurbishment and that the used CRTs will be reused or refurbished and reused. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."; and

(c) Submit the notification to EPA as described in 40 CFR §261.41(a)(2).

C. Record Keeping. A CRT exporter who exports used, intact CRTs for reuse shall:

(1) Keep copies of normal business records, such as contracts, demonstrating that each shipment of exported used, intact CRTs will be reused; and

(2) Satisfy the following requirements with respect to a business record required to be maintained by §C(1) of this regulation:

(a) Retain a copy of the record for at least 3 years from the date the CRTs were exported; and

(b) If the record is written in a language other than English, then, upon request by EPA, provide EPA with a copy of the original, non-English version of the record and a copy of a third-party translation of the record into English.

.25 Wastes Excluded from COMAR 26.13.02.16 and COMAR 26.13.02.17

Wastes identified in Appendix IX to 40 CFR Part 261, which the EPA has excluded from the lists of hazardous waste in 40 CFR Part 261, Subpart D, are considered to have been excluded from the list of hazardous waste from nonspecific sources in Regulation .16 of this chapter and the list of hazardous waste from specific sources in Regulation .17 of this chapter.

26.13.10 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

Authority: Environment Article, §6-906.3 and Title 7, Subtitle 2, Annotated Code of Maryland

.11 Small Quantity Handlers of Universal Waste—General Requirements.

A.—B. (text unchanged)

C. Notification.

(1) Except as provided in **[**Regulation .15B(3)(e) of this chapter, concerning crushing of lamps**]** *§C(2) and (3) of this regulation*, a small quantity handler of universal waste is not required to notify the Department or the U.S. Environmental Protection Agency of universal waste handling activities.

(2) A person who uses a device to crush universal waste lamps is subject to the notification requirement of Regulation .15B(3)(e) of this chapter.

(3) Persons Accepting Universal Waste from Off-site. Except for persons identified in §C(4) of this regulation, a small quantity handler of universal waste who accepts universal waste from off site shall:

(a) Send a written notification to the Department that contains the following information:

(i) The universal waste handler's name and mailing address;

(ii) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

(iii) The address or location where universal wastes accepted from off site will be managed;

(iv) A list of all the types of universal waste that the handler will accept from off site, such as "batteries, pesticides, mercury-containing equipment, and lamps"; and

(v) A statement in the cover letter accompanying the notification that the notification should be directed to the group in the Department responsible for oversight of hazardous waste management; and

(b) Submit the notification required by §C(2)(a) of this regulation by the later of the following deadlines:

(i) Within 90 days after the effective date of this regulation; or

(ii) Before the date universal waste is first accepted from off site.

(4) The notification requirement of §C(3) of this regulation does not apply if either of the following conditions is met:

(a) The site where universal waste is accepted from off site has been issued an EPA identification number; or

(b) The amount of universal waste at the location that is accepting universal waste from off site never exceeds 500 kilograms.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 16 LEAD

26.16.01 Accreditation and Training for Lead Paint Abatement Services

Authority: §§1-404; 6-818; 6-851; 6-852; 6-1001—6-1005; 7-206—7-208; Environment Article, Annotated Code of Maryland

Notice of Proposed Action

[15-070-P**]**

The Secretary of the Environment proposes to amend Regulations **.01—.05** and **.07—.20** under **COMAR 26.16.01 Accreditation and Training for Lead Paint Abatement Services**.

Statement of Purpose

The purpose of this action is to incorporate accreditation and training standards consistent with the federal Lead-Based Paint Renovation, Repair, and Painting Rule (RRP), which was adopted by the EPA in 2008. (40 CFR Part 745, Subpart E.) The RRP rule addresses renovation, repair, and painting of residential and child-occupied facilities built before 1978. In 2012, Chapter 387 of 2012 amended the definition of "abatement" in Environment Article, §6-1001, Annotated Code of Maryland, to include renovation, repair, and painting of lead-containing substances in a residential, public, or commercial building built before 1978. The same legislation also authorized the Department to adopt regulations that include "**[**s**]**tandards and procedures for abatement involving the renovation, repair, and painting of lead-containing substances, including a requirement for lead-dust testing." The action revises the existing training and accreditation regulations to address these activities in a manner consistent with the federal RRP rule. This includes, for example, the addition of notice, clean-up, and post-renovation clearance required under the federal regulation.

The action also extends the expiration date for various accreditations to perform lead paint abatement services from either 1 or 2 years to 3 years and changes the application fees for various types of accreditation.

The action makes other clarifying edits and updates references.

Comparison to Federal Standards

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

COMAR 26.16.01.10D(1)(a) and 40 CFR §745.225(c)(6)(vi). Under the proposed regulations, a lead paint maintenance and repainting supervisor must have an initial training course that provides at least 14 hours of instructional time over two days. The renewal course must last seven hours. Under the federal RRP, a renovator (analogous to Maryland's lead paint maintenance and repainting supervisor) must have a training course that lasts a minimum of eight training hours. The renewal course must last four hours.

COMAR 26.16.01.10, .17, and .18 and 40 CFR §§745.90 and 745.225. Supervisors must apply and be accredited by MDE under the proposed regulations, with renewal every three years. Under the federal RRP, renovators (equivalent to Maryland's "supervisors") must be trained, but the course certification form automatically confers certification on the renovator (no application to EPA required). The training must be renewed only every five years. Under the proposed regulations, a training provider must apply for separate accreditation for each training course provided and must renew accreditation every 3 years. Instructors must also be accredited every 3 years. Under the federal rule, instructors are not required to be certified. The training program must be accredited, including each course to be offered, but the reaccreditation is only every 4 years.

COMAR 26.16.01.09G and 40 CFR §745.89(b). Under the proposed regulations, lead paint abatement services contractors (which include "firms" providing RRP services under the federal rule), are required to be reaccredited every 3 years. Under the federal RRP, firms must be certified by EPA, with recertification required only every 5 years.

COMAR 26.16.01.03E and 40 CFR §745.83. Under the proposed regulations, persons performing renovation, repair, and painting work involving three square feet or less of surface area in a room (except for windrow removal or replacement) are not subject to most of the requirements, including pre-work notifications, preparation of the work area, and detailed clean-up requirements. Under the federal RRP rule, minor heating, ventilation, or air conditioning work, electrical work, and plumbing that disrupt six square feet or less of surface per room for interior activities are not considered renovation and are not subject to the RRP rule.

COMAR 26.16.01.11C and 40 CFR §745.85. The work practices for contractors and supervisors under the proposed regulations include some minor additional or more specific requirements compared to the work practice standards under the federal RRP rule. This is because the proposed regulation incorporates RRP requirements together with existing Maryland requirements that already apply to other types of abatement. These are primarily minor differences. For example:

• The RRP rule requires all objects to be removed from the work area or covered with plastic sheeting or other impermeable material. The proposed regulation requires that all movable objects be moved outside the room or to a distance at least 3 feet from the surface on which the work is to be performed and covered with plastic sheeting.

• Under the proposed regulations, warning signs posted to define the work area must have lettering at least 2 inches high and contain a specific warning ("Caution, Lead Hazard, Keep Out"), while the RRP rule does not include these specific requirements (though the signs must "clearly define the work area" and remain "readable").

• The proposed regulations specify that the supervisor must be on-site or available by telephone and able to be present within two hours during the work, while the RRP does not include the 2-hour availability requirement.

• The proposed regulations require the supervisor to ensure that all surfaces except carpeted surfaces are wiped with damp cloth and detergent after the work is finished; the RRP rule requires only wiping with a damp cloth (not the detergent).

• The proposed regulations specify that all waste from painted surfaces must be removed before a vacant property is reoccupied or no later than 72 hours after completion in an occupied property. The RRP rule specifies no time-frame.

COMAR 26.16.01.11C(9) and D and 40 CFR 745.85(b) and (c). Clearance dust testing after renovation is not required by the federal RRP rule, but may be performed if any of the parties to the renovation require it. Both the clearance dust testing and cleaning verification are acceptable for renovation work in all pre-1978 residential properties. The proposed regulations adopt the cleaning verification wipe method currently required by the RRP rule, with an alternative dust sampling clearance upon request. However, under the proposed regulations, cleaning verification or clearance dust testing is not permissible for the purpose of issuing a lead risk reduction certificate on an Affected Property or in any licensed child day care facility as defined in COMAR 13A. This is an existing requirement under State law.

COMAR 26.16.01.02B(7) and 40 CFR §745.82(a)(1). Under the proposed regulations, "lead-containing substance" is defined as paint, plaster, or other surface encapsulation containing more than 0.50 percent lead by weight calculated as lead metal in the dried solid, or more than 0.7 milligram per square centimeter. The applicability of the RRP rule is determined by whether the components have been certified free of lead paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5% by weight.

(2) Benefit to the public health, safety or welfare, or the environment:

The longer training course for supervisors (relative to EPA's renovator course) benefits public health by allowing for more in-depth coverage of safe work practices. The supervisor training requires coverage of over ten topics; the Department believes that the scope of the necessary supervisor training is better suited to a two-day course. Also, since supervisors will provide on-the-job training to lead paint maintenance and painting workers, more in-depth training also allows supervisors to provide more effective training to those workers.

More frequent accreditation renewals for supervisors, training providers, and contractors, and the requirement for instructor accreditation allows the Department to maintain better oversight of persons providing the services covered under the RRP rule. This ensures that service providers continue compliance with the training and accreditation requirements, which benefits public health.

The smaller square footage exemption benefits public health by subjecting more renovation, repair, and painting projects to the work practices. This ensures that services are provided in a manner that protects occupants from exposure to lead risks.

The minor variations in the work practices between the proposed regulations and the RRP rule may yield benefits to public health by ensuring occupants are notified of lead risks during the work, ensuring the trained supervisor is available for on-site management if needed within a reasonable period of time, and strengthening post-work cleaning and disposal practices.

The requirement for clearance dust testing for work on Affected Properties and licensed child care centers provides a higher level of protection for a subset of properties by further reducing the risk of lead exposure of occupants after work has been completed. This is also an existing requirement under State law.

The lower threshold for defining whether a substance is a "lead-based substance" is more protective of human health because it requires safe work practices for work disturbing a broader set of substances.

(3) Analysis of additional burden or cost on the regulated person:

Requiring a two-day instead of a one-day training course for lead paint maintenance and repainting supervisors may increase burdens to those supervisors by requiring them to miss one additional work-day for training. However, existing supervisors or EPA renovators would only be required to take a one-day refresher course to come into compliance with the requirement. Requiring more frequent renewal of accreditations would burden some service providers marginally by increasing the frequency of the administrative tasks related to applying for accreditation. More frequent training for lead paint maintenance and repainting supervisors would also increase time demands and expense to take the renewal course more frequently.

The smaller square footage exemption would require additional projects to be conducted by an accredited service provider according to the required work practices. This may place additional burden on contractors of having to staff these projects with accredited supervisors and on supervisors to provide on-the-job training to workers. However, it may also benefit contractors and individuals that are accredited by increasing the number of jobs requiring their services.

The minor changes in work practices will likely have an insignificant effect on regulated service providers. Supervisors would need to learn about the changes in requirements. Any service providers that provide types of abatement services other than those covered under the federal RRP rule would already be familiar with the requirements included in existing Maryland regulations.

The lower threshold for defining whether a substance is a "lead-based substance" may require additional projects to be conducted by an accredited service provider according to the required work practices. This may place an additional burden on contractors of having to staff these projects with accredited supervisors and to supervisors to provide on-the-job training to workers. However, it may also benefit contractors and individuals that are accredited by increasing the number of jobs requiring their services.

(4) Justification for the need for more restrictive standards:

(a) The benefit from the more restrictive standard exceeds the burden or cost of the more restrictive standard on the regulated person or business;

As discussed above, the areas in which the proposed regulations are more stringent than the federal requirements will better protect occupants from exposure to lead risks during and after renovation of pre-1978 residential and child-occupied facilities. While there are some associated burdens to regulated service providers, the Department believes these are minor relative to the public health and environmental benefit.

(b) Conditions or circumstances specific or special to Maryland require that Maryland enact a more restrictive standard;

Unlike many states that have simply adopted the federal RRP rule by reference, Maryland already has work practice, training and accreditation regulations similar to the RRP. Before the expansion in MDE's authority in 2012, these requirements only applied to lead paint removal and work being performed to meet the Maryland risk reduction standard in an Affected Property. The RRP (and MDE's expanded authority conferred by Chapter 387 of 2012) applies to all pre-1978 residential properties and child-occupied facilities. Rather than create entirely separate regulatory requirements to cover the new scope of properties, the Department has combined the federal RRP requirements with existing requirements. This applies some more stringent existing requirements to projects covered under the federal RRP rule, but will reduce confusion and avoid the need for service providers to learn and meet different standards for work at different types of properties.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed revisions will increase revenue to the Department from additional accreditation fees and will increase expenditures by the Department for implementation

and outreach. The proposed revisions will have both positive and negative impacts on regulated industries. The magnitude of these economic impacts cannot be determined but are described below.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
(1) Accreditation fee revenue	(R+)	Indeterminable
(2) Implementation and outreach	(E+)	Indeterminable
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Extended accreditation duration	(+)	Indeterminable
(2) Shorter accreditation (relative to EPA)	(-)	Indeterminable
(3) Costs to training providers	(-)	Indeterminable
(4) Benefits to training providers	(+)	Indeterminable
(5) Benefits to workers	(+)	Indeterminable
(6) Third-party examination fees	(-)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A(1). With the incorporation of the federal RRP rule, the Department will receive additional accreditation fee revenue for service providers that were previously covered under the federal training and certification rules. It is expected that the number of Maryland-accredited service providers will increase from roughly 4,500 to at least 9,000. However, this increase will not translate into immediate increases in revenue, because contractors and firms that hold a current EPA accreditation or certification for RRP work will be grandfathered for a period under the regulations. These existing contractors and firms will be required to submit an application and proof of EPA accreditation to MDE within 180 days of the effective date of the regulations. The fees for training providers and third party examinations are increasing under the proposed regulations, which will also generate additional fee revenue for the Department. All other fee rates were adjusted to maintain the same levels on a per-year basis.

A(2). The Department will experience an increase in the number of service providers that must receive State accreditation and oversight, and the Department will need to ensure compliance with the federal RRP requirements newly incorporated into State regulations. The number of properties the Department would have to provide oversight on would increase to include 535,000 owner-occupied properties and an additional 318,000 rental properties. Additionally, the Department would also regulate remodeling activities at child-occupied facilities (e.g. day care centers, schools).

This will result in an additional workload for the Department and the need for outreach to the regulated community. Some of this additional workload will be offset by the lengthening of the accreditation durations to three years.

D(1). Certain service providers conducting work that was covered under the accreditation and training requirements in the existing regulations will have the duration of their accreditation extended from two to three years (supervisors, contractors, lead paint inspector technicians, lead paint visual inspectors, and lead paint risk assessors). Instructors and training providers will have the duration of their accreditations extended from one to three years. This reduces the administrative burden and, where training is required, the missed working time associated with maintaining accreditation. Note that all fees, except those for training provider accreditations and third-party examinations (discussed in D.3), were adjusted to preserve the per-year cost.

D(2). For certain service providers currently conducting work under the federal RRP rule, the duration of accreditation will be reduced. This is because EPA's certification and training requirements require renewal only every five years (for renovator training and firm certifications) or four years (for training programs), while all State accreditations will be renewed every three years. This impact will not be immediate because of phasing in of the regulations for existing EPA-certified service providers. In addition, lead paint maintenance and repainting supervisors that were formerly EPA renovators will be required to obtain both training and accreditation, while EPA certifies renovators automatically upon training. This would require payment of the accreditation fee ($187.50) in addition to the cost for the private training course. EPA renovators only need to pay for the course.

D(3). Training providers will no longer provide training courses to lead paint maintenance and repainting workers under the proposed regulations because MDE is adopting the RRP rule's on-the-job training for these workers. This may negatively impact training providers by eliminating demand for that type of course. In addition, the fees for accreditation of training providers are increasing from $300 (for a one-year accreditation period) to $1,200 (for a three-year accreditation period), which increases the per-year cost from $300 to $400.

D(4). Overall, the number of people that will require training from Maryland-accredited training providers will increase to include those service providers previously covered under EPA training and certification under the RRP rule.

D(5). Lead paint maintenance and repainting workers covered under the existing regulations will no longer require a formal two-day training course, but will instead receive on-the-job training. This will reduce burdens on these workers, including missed workdays.

D(6). Third party examination fees increase in the proposed regulations from a one-time fee of $35 to $50. However, this affects only removal and demolition supervisors, inspector technicians, and risk assessors.

Economic Impact on Small Businesses

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

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the proposal impacts small businesses. Quantify the number of affected small businesses and estimates of costs and benefits to small businesses if possible. State Government Article, §2-1505.2, includes the following definitions which are relevant to the analysis:

"Economic impact analysis" means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

"Small business" means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated; (ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

The intended beneficiaries of the proposed regulations are occupants of pre-1978 residential properties and child care facilities. These beneficiaries are primarily households and children who attend child care facilities. The proposed regulations may also have some indirect benefits to businesses involved in renovations and other work on residential properties and child care facilities, but these are not the primary intended beneficiaries.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

For renovation of pre-1978, owner-occupied residential properties, service providers would newly be required to be accredited by Maryland and follow Maryland regulations, including work practices. Any additional costs to service providers to comply with the proposed regulations could be passed, wholly or partly, to the homeowners. If significant, these additional costs may reduce remaining disposable income, which could affect consumer spending or purchasing power. However, because the federal Lead-Based Paint Renovation, Repair, and Painting Rule (RRP) currently applies to this type of work and is generally similar to the proposed regulations, any impact on households due to this change is expected to be minimal. If they exist, these impacts would not have a disproportionate impact on small businesses.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

N/A – Businesses are not the intended beneficiaries.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

The proposed regulations affect providers of lead paint abatement services. Some lead paint abatement services contractors are likely to be small businesses, but the Department does not have information on the number or proportion of small businesses.

The proposed regulations would have both negative and positive impacts on service providers. Some service providers previously covered under the federal RRP rule would be subject instead to Maryland's accreditation and training requirements; to the extent that these are more stringent or costly than the federal RRP, there may be negative effects on these service providers. For example, under the federal RRP, renovators are required to undergo an eight-hour training course, with a four-hour refresher course every five years. In contrast, Maryland's analogous lead paint maintenance and painting supervisors must undergo a 14-hour initial training course, with a seven-hour renewal course every three years. In addition, Maryland lead paint maintenance and painting supervisors must apply for State accreditation and pay a fee of $187.50, while under the federal RRP certification is automatic upon completion of the course. (For a full discussion of the relative stringency of the federal RRP and the proposed regulations, see Comparison to Federal Standards.)

In contrast, service providers already operating under the State regulations would benefit from some of the changes. All lead paint maintenance and painting workers can undergo on-the-job training instead of a formal course. Supervisors, contractors, lead paint inspector technicians, lead paint visual inspectors, and lead paint risk assessors will only need to renew accreditations every three years (as opposed to the current two years). Training providers and instructors would have the duration of their accreditations extended from one to three years. For service providers required to complete refresher courses at each reaccreditation, this change would reduce the frequency of that training, reducing associated costs. For all service providers, the less frequent reaccreditation would reduce paperwork.

Training providers may see changes in demand for their services as a result of the proposed regulations. The elimination of the required lead paint maintenance and painting worker training in favor of on-the-job training would reduce demand for this type of course. However, the number of service providers subject to State standards is expected to increase from approximately 4,500 to at least 9,000 due to adoption of the RRP rule. While it is anticipated that this increased demand for Maryland-based training would exceed the reduction in demand for lead paint maintenance and painting worker training, the exact impact is unknown. The fees for accreditation of training providers will increase from $300 to $400 on a per-year basis.

For removal and demolition supervisors, inspector technicians, and risk assessors, the third-party certification examination fee is increased from $35 to $50.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

See response to question 2a.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from

immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

No.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

(1) Cost of providing lead paint abatement services: See responses to questions 1b and 2a. The Department has insufficient information to quantify net impacts to the cost of providing these services.

(2) Effect on the work force: While the total number of service providers subject to training requirements under Maryland regulations would increase, lead paint maintenance and repainting workers would receive on-the-job training rather than formal training courses. To the extent that there is a net increase to demand for training from Maryland-based training providers, the proposed regulations could support additional employment.

(3) Effect on the cost of housing: See response to question 1b. In rental housing, it is conceivable that any changes in the cost of lead paint abatement services as a result of these regulations could be passed to the consumer in the form of higher rent. However, given that the changes from the current regulations and the federal RRP rule are limited, this impact is not expected to be significant.

(4) Effect on efficiency in production and marketing: none expected.

(5) Capital investment, taxation, competition, and economic development: none expected.

(6) Consumer choice: none expected.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Paula Montgomery, Program Manager, Lead Poisoning Prevention Program, Maryland Department of the Environment, 1800 Washington Blvd., Suite 610, or call 410-537-3825, or email to Paula.Montgomery@Maryland.gov, or fax to (410) 537- 3156 . Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Scope.

This chapter establishes:

A. Requirements and standards for the accreditation of contractors, supervisors, inspectors**[**, project designers**]**, *risk assessors*, *instructors*, and trainers providing lead paint abatement services for residential, public, or commercial buildings, bridges, or other structures or superstructures;

B.—C. (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Abatement" means a set of measures **[**designed to**]** *that* eliminate or reduce lead-based paint hazards in residential, public, or commercial buildings, bridges, or other structures or superstructures in accordance with standards established by the Department, which may include:

(a) The removal of lead-based paint and lead-contaminated dust, the containment or encapsulation of lead-based paint, the replacement or demolition of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; **[**and**]**

(b) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with these measures**[**.**]***; and*

(c) The renovation, repair, and painting of a lead-containing substance in a residential, public, or commercial building built before 1978.

(2) "Accreditation" means recognition by the Department that a contractor, supervisor, inspector, risk assessor, *instructor*, or training provider is in compliance with the applicable requirements of this chapter.

(3) "Child care center" means:

(a) **[**a**]** *A* child care center as defined under COMAR **[**07.04.02**]** *13A.16.01.02***[**.**]***; or*

(b) A child-occupied facility as defined in 40 CFR §745.83.

(4) (text unchanged)

(4-1) "EPA" means the U.S. Environmental Protection Agency.

(4-2) "Informational pamphlet" means the U.S. Environmental Protection Agency pamphlet required to be distributed under 40 CFR §745.84.

(5)—(11) (text unchanged)

(12) "Lead paint maintenance and repainting" means in-place management or interim control of a lead-containing substance including, but not limited to, the following activities:

(a) Removal of loose, chipping, or peeling paint;

(b) Limited replacement or repair of defective components or other substrates;

(c) The removal and replacement of windows and related trim; **[**or**]**

(d) *Renovation, repair, and painting of a lead-containing substance in a residential, public, or commercial building built before 1978; or*

(e) Other measures to prepare lead paint for recoating with a lead-free product, encapsulation, or enclosure.

(13)—(14) (text unchanged)

(15) "Lead paint visual inspector" means an individual who conducts visual inspections and collects dust samples for analysis to*:*

(a) **[**verify**]** *Verify* conformance with the lead risk reduction standards of Environment Article, §6-815 or 6-819, Annotated Code of Maryland**[**,**]***; or*

(b) Determine the presence of lead dust hazards following the performance of abatement measures as defined in §B(1)(c) of this regulation, except at child care centers subject to COMAR 13A.15.05.02, 13A.16.05.05, 13A.17.05.05 or 13A.18.05.05.

(16)—(27) (text unchanged)

.02-1 Incorporation by Reference.

A. (text unchanged)

B. Documents Incorporated.

(1) 40 CFR §745.225(d) and (e) (**[**2003**]** *2013*)**[**.**]***;*

(2) 40 CFR §745.227(**[**2003**]** *2013*)**[**.**]***; and*

(3) 40 CFR Part 745, Subpart E (2013).

.03 Applicability of this Chapter.

A. The presence of a lead-containing substance is presumed in any residential building or *child care center* constructed before **[**1950**]** *1978* unless a person determines that all painted surfaces are lead-free in accordance with §B of this regulation.

B. Determination of lead content in paint *for the purposes of this chapter* shall be based on:

(1) Use of an XRF by an accredited person;

(2) Analysis by a qualified laboratory of paint samples from surfaces to be disturbed during the project;

(3) A specific knowledge of the painting history of the structure; **[**or**]**

(4) For renovations, repairs and painting in structures subject to this chapter, other than Affected Properties, as defined by Environment Article, § 6-801(b), Annotated Code of Maryland, an EPA recognized test kit, as defined in 40 CFR §745.83; or

[(4)**]** *(5)* Other procedures approved on a case-by-case basis by the Department.

C. (text unchanged)

[D. Except as provided in §§E and F of this regulation, performance of maintenance, repair, or renovation work involving the disturbance of a lead-containing substance in a residential building constructed before 1950 is subject to Regulation .11C(2) and (3), and (5)—(8) of this chapter.**]**

[E.**]** *D.* Except for **[**§G**]** *§F* of this regulation and Regulation .11C(5) and (12) of this chapter, performance of maintenance, repair, or renovation work that results in **[**disturbances**]** *the disturbance* of a lead-containing substance is excluded from the regulations of this chapter as follows:

(1)—(2) (text unchanged)

[F.**]** *E.* The following activities are not subject to the regulations of this chapter:

(1) (text unchanged)

(2) A person performing maintenance, repair, or renovation work in an owner-occupied dwelling unit *for which no compensation is received*.

[G.**]** *F.* The use of open flame burning for the removal of a lead-containing substance is prohibited in residential and public buildings and child care centers.

.04 Accreditation.

A.—D. (text unchanged)

E. Representatives of the Commissioner of Labor and Industry who provide occupational safety and health inspection, consultation, and training services for the Commissioner are recognized, under Environment Article, **[**§6-1003(b)(5)**]** *§6-1002(a)*, Annotated Code of Maryland, as accredited to perform these services.

F.—H. (text unchanged)

I. An individual or firm certified under 40 CFR §745.89 or .90 to perform renovation, repair, and painting of a lead-containing substance in a residential, public, or commercial building built before 1978, before the implementation of this regulation, that has satisfied the training requirements under this chapter, may be accredited by the Department if the individual or firm:

(1) Provides documentation to the Department establishing their training and certification by EPA; and

(2) Submits an application for accreditation to the Department within 180 days of the effective date of this regulation;

J. An individual or firm accredited by the Department under §I of this regulation shall not perform any lead paint abatement services other than renovation, repair, and painting of a lead-containing substance in a residential, public, or commercial building built before 1978, as set forth in Regulation .02B(1)(c) of this chapter.

K. An individual or firm accredited by the Department under §I of this regulation is not subject to Regulation .20 of this chapter during the duration of their certification under 40 CFR §745.89 or .90.

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

.05 General Training Requirements.

A. (text unchanged)

B. The curriculum for each training course shall be developed by the training provider in conformance with standards included in this chapter, including all applicable topics set forth in 40 CFR §745.225**[**(d) and (e)**]**, and subject to approval by the Department.

C. (text unchanged)

D. Each training course shall include the following core topics:

(1)—(8) (text unchanged)

(9) Regulatory standards established by the:

(a)—(b) (text unchanged)

(c) **[**Federal Environmental Protection Agency**]** *EPA*, and

(d) (text unchanged)

E.—F. (text unchanged)

G. **[**Identification Card**]** *Documentation of Training*.

(1) An individual trained to provide a lead paint abatement service shall carry, while engaged in the lead paint abatement service, an identification card issued by a training provider or by the Department, *or documentation of on-the-job training received under Regulation .07B of this chapter*.

(2) (text unchanged)

.07 Lead Paint Abatement Worker Training Requirements [for Residential, Commercial, and Public Buildings].

A. **[**General Requirements**]** *Training Requirements for Lead Paint Abatement Workers and Lead Paint Removal and Demolition Workers*.

(1) *This section applies to lead paint abatement workers performing work under COMAR 26.02.07 and to lead paint removal and demolition workers.*

(2) A lead paint abatement worker *or lead paint removal and demolition worker* shall have:

(a)—(c) (text unchanged)

[(2)**]** *(3)* A lead paint abatement worker *or lead paint removal and demolition worker* shall have a current valid identification card, issued by the training provider, in the worker's possession at all times when performing lead paint abatement.

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

[B. Training Requirements.**]**

[(1)**]** *(5)* Initial Lead Paint Abatement Worker *or Lead Paint Removal and Demolition Worker* Course.

(a) The initial **[**lead paint abatement worker**]** course *required under this section* shall:

(i)—(ii) (text unchanged)

(b) An individual who has successfully completed the initial **[**lead paint abatement worker**]** course *required under this section* is considered to have completed the core topics and 7 hours of the training required for any of the lead paint abatement supervisor courses under Regulation .10 of this chapter.

(c) (text unchanged)

[(d) An individual who has successfully completed a worker training course approved by the Department under provisions of COMAR 26.02.07.11 has satisfied the training requirements of this regulation, except that the individual's training certification shall expire 36 months from completion of the approved worker training course.**]**

[(2)**]** *(6) Lead Paint Abatement Worker or Lead Paint Removal and Demolition Worker Review Course*. The **[**lead paint abatement worker**]** review course *required under this section* shall:

(a)—(b) (text unchanged)

B. Lead Paint Maintenance and Repainting Workers.

(1) A lead paint maintenance and repainting worker shall receive documented on-the-job training from a lead paint maintenance and repainting supervisor or lead paint demolition and removal supervisor.

(2) A lead paint maintenance and repainting supervisor shall ensure that the worker has received documented on-the-job training, including instruction on all core topics listed in Regulation .05D of this chapter, before the worker performs lead paint maintenance and repainting services.

.08 Project Designer Accreditation Requirements.

A. General Requirements. A project designer shall have:

(1)—(2) (text unchanged)

(3) Completed the specified review course**[**,**]** *and* passed the examination designated for that course**[**, and applied for renewal of accreditation before the certificate expiration date, which is when the project designer's accreditation expires**]**; *and*

(4) Responsibility for oversight of a large scale lead paint abatement project and shall ensure completion of the abatement project in compliance with the applicable requirements of this chapter, COMAR 26.02.07, and COMAR 26.16.01**[**; and

(5) Applied and submitted a fee to the Department for the lead paint project designer category of accreditation under COMAR 26.16.01.20**]**.

B.—D. (text unchanged)

.09 Lead Paint Abatement Services Contractor Accreditation Requirements.

A.—E. (text unchanged)

F. A contractor providing inspection or lead paint risk assessor services:

(1) Shall comply with all work practice standards set forth in 40 CFR §§745.227 *and 745.85* and COMAR 26.16.05 for the performance of inspections and collection of paint and dust samples;

(2)—(3) (text unchanged)

G. The Department may issue a certificate with an expiration date which is **[**24**]** *36* months following the date of issuance to a contractor who meets the accreditation requirements of this regulation.

H.—I. (text unchanged)

.10 Supervisor Accreditation Requirements [for Residential, Commercial, and Public Buildings].

A. General Requirements.

(1) A lead paint abatement supervisor shall have:

(a) (text unchanged)

(b) Received, as proof of training and accreditation, an identification card and a certificate indicating an expiration date which is **[**24**]** *36* months following the accreditation date.

(2)—(5) (text unchanged)

B.—C. (text unchanged)

D. Lead Paint Maintenance and Repainting Supervisor Training Requirements.

(1) Initial Course.

(a) (text unchanged)

(b) The initial lead paint maintenance and repainting supervisor course shall cover the following topics:

(i)—(ii) (text unchanged)

(iii) Pertinent regulations established by the Department of the Environment; **[**and**]**

(iv) *Topics required under 40 CFR §745.225(d)(6); and*

(v) Management of worker safety and health programs, including respiratory protection and worker right-to-know programs.

(2) (text unchanged)

E. Lead paint maintenance and repainting supervisors and lead paint removal and demolition supervisors certified under this regulation or a renovator certified under 40 CFR §745.90 by the effective date of this regulation shall satisfy the initial training requirement by completing the lead paint maintenance and repainting supervisor review course.

.11 Contractor/Supervisor Performance Standards for Residential Buildings and Child Care Centers.

A. Except for performance of lead hazard reduction treatments, *renovations, repairs and painting activities*, persons performing lead paint abatement services shall ensure that the provision of lead paint abatement services involving residential buildings and child care centers conforms to COMAR 26.02.07.

A-1. *Notice of Lead Abatement Projects at Residential Buildings.* **[**At least 24 hours but not more than 10 days before beginning lead paint abatement projects for residential buildings, the contractor or supervisor shall notify the Department of the location and anticipated start and completion dates for the projects.**]**

(1) No more than 60 days before beginning a lead abatement project at a residential building, the contractor or supervisor shall provide the owner of the unit with a copy of the informational pamphlet.

(2) The contractor or supervisor shall:

(a) Obtain from the owner a written acknowledgement that the owner has received the informational pamphlet; or

(b) Obtain a certificate of mailing of the informational pamphlet at least 7 days before beginning work.

(3) In addition to the requirements under §A-1(1) and (2) of this regulation, if the owner does not occupy the residential unit where the work will take place, the contractor or supervisor shall, no earlier than 60 days before beginning the lead abatement project, provide an adult occupant of the unit with a copy of the informational pamphlet.

(4) The contractor or supervisor shall obtain proof of delivery of the informational pamphlet to the occupant, if required under §A-1(3) of this regulation, by:

(a) Obtaining a certificate of mailing of the informational pamphlet at least 7 days before beginning work;

(b) Obtaining a written acknowledgement from an adult occupant of receipt of the informational pamphlet; or

(c) Completing a written certification that includes:

(i) A statement that the contractor or supervisor was unsuccessful in obtaining a written acknowledgement from an adult occupant;

(ii) The address of the unit;

(iii) The date and method of delivery of the informational pamphlet;

(iv) The name of the person delivering the informational pamphlet;

(v) The reason for lack of acknowledgement;

(vi) The signature of the supervisor or a representative of the contractor; and

(vii) The date of the signature.

(5) In addition to the requirements under §A-1(1) and (2) of this regulation, if the abatement project will take place in a common area of a multi-unit residential building, the supervisor or contractor shall:

(a) Distribute written notice to each impacted unit, including:

(i) The general nature and locations of the planned abatement project;

(ii) The expected starting and ending dates; and

(iii) A statement of how occupants can review a copy of the informational pamphlet; or

(b) While the work is ongoing, post informational signs:

(i) Describing the general nature and locations of the work;

(ii) Stating the anticipated completion date; and

(iii) Posting a copy of the informational pamphlet or information on how occupants may review a copy of the pamphlet at no cost.

A-2. Notice of Lead Abatement Projects at Child Care Centers.

(1) No earlier than 60 days before beginning a lead abatement project at a child care center, the contractor or supervisor shall provide the owner of the unit with a copy of the informational pamphlet.

(2) The contractor or supervisor shall:

(a) Obtain from the owner a written acknowledgement that the owner has received the informational pamphlet; or

(b) Obtain a certificate of mailing of the informational pamphlet at least 7 days before beginning work.

(3) In addition to the requirements under §A-2(1) and (2) of this regulation, if the child care center is not the building owner, the contractor or supervisor shall, no earlier than 60 days before beginning the lead abatement project, provide an adult representative of the child care center with a copy of the informational pamphlet.

(4) The contractor or supervisor shall obtain proof of delivery of the informational pamphlet to the occupant, if required under §A-2(3) of this regulation, by:

(a) Obtaining a certificate of mailing of the informational pamphlet at least 7 days before beginning work;

(b) Obtaining a written acknowledgement from an adult representative of receipt of the informational pamphlet; or

(c) Completing a written certification that:

(i) Certifies that the contractor or supervisor was unsuccessful in obtaining a written acknowledgement from an adult representative;

(ii) Includes address of the unit;

(iii) Includes the date and method of delivery of the pamphlet;

(iv) Lists name of the person delivering the informational pamphlet;

(v) States the reason for lack of acknowledgement;

(vi) Includes the signature of the supervisor or a representative of the contractor; and

(vii) Lists the date of the signature.

(5) The contractor or supervisor shall provide the parents and guardians of children using the child care center with the informational pamphlet, information on the general nature and locations of the work, and the anticipated completion date of the work, by:

(a) Mailing or hand-delivering the informational pamphlet and information to each parent or guardian of a child using the child care center; or

(b) While the work is ongoing, post informational signs:

(i) Describing the general nature and locations of the work;

(ii) Stating the anticipated completion date; and

(iii) Posting a copy of the informational pamphlet or information on how occupants may review a copy of the informational pamphlet at no cost.

(6) At least 24 hours but not more than 10 days before beginning a lead paint abatement project at a child care center, the contractor or supervisor shall notify the Department of the location and anticipated start and completion dates for the project.

B. (text unchanged)

C. **[**Risk Reduction**]** Work Practices.

(1) Notwithstanding the provisions of COMAR 26.02.07, lead hazard reduction treatments, *renovations, repairs or painting activities,* shall be performed in conformance with this section.

(2) A person **[**conducting lead hazard reduction treatments**]** may not use methods that are prohibited under COMAR 26.02.07.03.

(3) A person **[**conducting lead hazard reduction treatments**]** may use any of the following methods:

(a)—(b) (text unchanged)

(4) Except for window removal or replacement, disturbance of a lead-containing substance involving 3 square feet or less of surface area in a room **[**during the performance of lead hazard reduction treatments**]** is exempt from §C(2), (3), (6), (7), and (12) of this regulation.

(5) Whenever repairs or maintenance work will disturb the paint on interior surfaces of **[**an affected**]** *a* property, the owner and supervisor shall make reasonable efforts to ensure that individuals not performing work are not present in the work area and that persons at risk are removed from the **[**affected**]** property when the work is performed.

(6) If lead hazard reduction treatments involve the disturbance of paint on more than 3 square feet of surface area within a room, or involve window removal or replacement, the supervisor shall ensure that:

(a) All movable objects are moved:

(i) (text unchanged)

(ii) To a distance of at least 3 feet from the surface on which the work is to be performed, and covered with plastic sheeting **[**at least 4 mils thick,**]** *with all seams and edges taped or otherwise sealed*;

(b) **[**Caution signs, with the words, "Caution, Lead Hazard, Keep Out" in bold lettering at least 2 inches high, are posted in a clearly visible location at each entrance to the work area,**]** *Before beginning work, caution signs are posted that:*

(i) Contain the warning "Caution, Lead Hazard, Keep Out" in bold lettering at least 2 inches high;

(ii) Are in a clearly visible location at each entrance to the work area;

(iii) Clearly define the work area;

(iv) Are in the primary language of the occupants, to the extent possible;

(v) Include the anticipated completion date of the work;

(vi) Identify the contractor and supervisor;

(vii) Include a telephone number for the contractor or supervisor; and

(viii) Remain in place and readable until the work is completed;

(c)—(d) (text unchanged)

(e) A person not subject to 29 CFR §1926.62, **[**with Maryland amendments to it under**]** *as incorporated under* COMAR 09.12.31, **[**shall**]** wears, when present in the work area, a half-mask air purifying respirator equipped with HEPA filters when a heat gun or sander is in use;

(f) *Before beginning work, the work area is* **[**In an occupied dwelling unit, the work area shall be**]** sealed from all other portions of the unit, *so that no dust or debris leaves the work area while the work is being performed*;

(g) In an occupied dwelling unit, if the work area includes the kitchen, storage areas for food, dishes, and utensils, **[**shall be**]** *these areas are* protected **[**so that**]** *from* dust **[**does not reach the interior**]**;

(h) In an unoccupied dwelling unit, the interior of storage areas for food, dishes, and utensils **[**shall be**]** *are* washed and vacuumed as provided in §C(8) of this regulation;

(i) Nonmovable objects, such as radiators, refrigerators, stoves, and bookcases, **[**shall be**]** *are* covered with plastic sheeting **[**at least 4 mils thick secured in place**]** *with all seams and edges taped or otherwise sealed*;

(j) Floors in **[**the**]** *interior* work areas **[**shall be**]** are covered with plastic sheeting **[**at least 4 mils thick**]** *that*:

(i) Is secured in place*; and*

(ii) Covers an area extending the greater of 6 feet beyond the perimeter of surfaces undergoing work or a sufficient distance to contain the dust;

(k) The ground in exterior work areas is covered with plastic sheeting that:

(i) Is secured in place; and

(ii) Covers an area extending the greatest of 10 feet beyond the perimeter of surfaces undergoing work, a sufficient

distance to collect falling paint debris, or to the edge of the property line, including vertical containment if necessary to prevent paint debris from leaving the property;

(l) Doors within work areas are covered with plastic sheeting; and

[(k)**]** *(m)* All forced air ventilation in the work area **[**shall be**]** *is* shut down and exhaust and intake points in the work area **[**shall be**]** *are* sealed.

(7) Wall-to-Wall Carpeting.

(a) During the conduct of work specified in §C(6) of this regulation, wall-to-wall carpeting which remains in a room shall be protected from lead contamination by at least one layer of plastic sheeting, **[**at least 4 mils thick,**]** secured in place.

(b) If**[**, during the performance of the lead hazard reduction treatments,**]** the plastic sheeting is torn or punctured, the plastic sheeting shall be immediately repaired or replaced.

(c) Dust and debris **[**generated during the performance of lead hazard reduction treatments**]** may be wrapped in the plastic sheeting and prepared for disposal, as required under **[**§C(9)**]** *§C(10*) of this regulation.

(d)—(e) (text unchanged)

(8) Cleanup of Work Area. After completion of **[**lead hazard reduction treatments and other**]** activities that may disturb lead paint in a work area, but before applying paint or other surface coatings, the contractor or supervisor shall:

(a) Deposit all waste from painted surfaces in plastic bags**[**, at least 4 mils thick,**]** and seal the bags;

(b) Vacuum dust from all surfaces in the work area**[**, except ceilings,**]** with a HEPA vacuum;

(c) After HEPA vacuum cleaning, as required in §C(8)(b) of this regulation**[**,**]***:*

(i) Mop uncarpeted floors thoroughly, using detergent and a mopping method that keeps wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping method;

(ii) **[**wash**]** *Wipe* all *other* surfaces *and objects,* except **[**the ceiling, walls, and**]** carpeted surfaces, with a *damp cloth and* detergent, changing the wash water at frequent enough intervals to assure adequate cleaning; and

(d) (text unchanged)

(9) Post Renovation, Repair and Painting Cleaning Verification. Except for properties subject to COMAR 13A.15.05.02, 13A.16.05.05, 13A.17.05.05, or 13A.18.05.05, after completion of renovation, repairs or painting that may disturb lead paint, the contractor or supervisor shall verify the work area has been properly cleaned in accordance with 40 CFR §745.85(b).

[(9)**]** *(10)* Waste Disposal.

(a) Waste from painted surfaces shall be removed before a vacant **[**dwelling unit**]** *property* is reoccupied, or not later than 72 hours after the cleanup has been completed in an occupied **[**dwelling unit**]** *property*.

(b) (text unchanged)

[(10) Alternative Procedures.

(a) The Department may, on a case-by-case basis, allow an alternative procedure for the performance of lead hazard reduction treatments or modified lead hazard reduction treatments, if the contractor or supervisor submits a written description of the alternative procedure to the Department which demonstrates to the satisfaction of the Department that the proposed alternative procedures provide equivalent protection of human health and the environment.

(b) In all cases in which the Department allows the use of an alternative procedure under §C(11)(a) of this regulation, the Department shall have access to the work area for a 1-year period following completion of the work to determine the continued effectiveness of the alternative procedure.**]**

(11) Disposal.

(a) The contractor or supervisor shall ensure compliance with applicable hazardous waste regulations under COMAR 26.13.

(b) Liquid waste shall be contained at the work site and managed in accordance with federal, State, and local regulations.

[(11)**]** *(12*) Cleanup after Disturbance of a Lead-Containing Substance. A person performing maintenance, repair, or renovation work in a residential building constructed before **[**1950**]** *1978*, that results in a disturbance of a lead-containing substance that involves 3 square feet or less of surface area in a room, shall remove all visible debris created as a result of that work before the person leaves the affected property.

D. Optional Post-Renovation Dust Testing.

(1) This section applies to the renovation, repair, and painting of a lead-containing substance in a residential, public, or commercial building built before 1978 that is not subject to COMAR 13A.15.05.02, 13A.16.05.05, 13A.17.05.05 or 13A.18.05.05.

(2) At the conclusion of work described under §D(1) of this regulation, the contractor or supervisor need not perform the cleaning procedures required by §C(9) of the regulation, if the contract between the contractor or supervisor and the person contracting for the work requires post renovation dust testing.

(3) Dust test sampling shall be performed in accordance with COMAR 26.16.05.09E by an accredited:

(a) Visual inspector;

(b) Inspector technician; or

(c) Risk assessor.

(4) The contractor or supervisor shall ensure that the work area is re-cleaned until the dust sample results are below the lead contaminated dust levels set forth in COMAR 26.16.02.02B(6).

E. Recordkeeping.

(1) A contractor or supervisor shall retain the following records for a minimum of 5 years:

(a) Acknowledgements of receipt, certificates of mailing, written certifications, and informational pamphlets required under §§A-1 and A-2 of this regulation;

(b) Documentation that an accredited supervisor was assigned to the project;

(c) For lead paint removal and demolition, documentation that workers used for the project fulfilled the training requirements required under Regulation .07B of this chapter;

(d) For lead paint maintenance and repainting, documentation of on-the-job training provided to workers used for the project and the topics of training provided to each worker;

(e) A certification by the supervisor assigned to the project that the supervisor conducted or directed workers who conducted the work practices required under §C of this regulation;

(f) The results of any testing performed under §D of this regulation;

(g) Documentation of the on-site inspections required under §B(1) of this regulation; and

(h) The results of any testing done to determine lead content in paint under Regulation .03B of this chapter.

(2) Upon request by the Department, a property owner shall provide the Department with copies of the records required in §E(1) of this regulation.

.12 Contractor/Supervisor Performance Standards for Commercial and Public Buildings.

A.—D. (text unchanged)

E. Control of Emissions and Dust.

(1) In interior areas, before beginning any activity which may generate lead-containing dust or debris, the supervisor shall remove or cover all furnishings in the work area, and shall securely cover floors and nonmovable objects with plastic sheeting **[**at least 4 mils thick**]**.

(2) (text unchanged)

F. Cleanup.

(1) Cleaning procedures in interior areas shall employ the use of a vacuum cleaner with an HEPA filtration system and *thorough mopping using detergent and a mopping method that keeps wash water separate from rinse water, such as the two-bucket mopping method, or using a wet mopping method* **[**wet cleaning with a solution containing at least 1 ounce of 5 percent trisodium phosphate to each gallon of water**]**.

(2)—(4) (text unchanged)

G. (text unchanged)

[H. Alternative Procedures.

(1) The Department may, on a case-by-case basis, allow an alternative procedure for abatement of a lead paint hazard if the owner, contractor, or supervisor who uses this procedure submits a written description of the alternative procedure to the Department which demonstrates to the satisfaction of the Department that the proposed alternative procedure provides an equivalent or improved abatement result.

(2) In all cases in which the Department allows the use of an alternative procedure under §G(1) of this regulation, the owner shall, for a 2-year period after completion of the lead paint abatement project, permit the Department to enter the area where the abatement occurred in order to determine the continued effectiveness of the allowed alternative procedure.**]**

.13 Structural Steel Lead Paint Abatement Training and Accreditation Requirements.

A. (text unchanged)

B. Structural Steel Supervisor Accreditation Requirements.

(1) General Requirements.

(a) (text unchanged)

(b) A structural steel lead paint abatement supervisor shall have received, as proof of training, a certificate and identification card indicating an expiration date which is **[**24**]** *36* months following the accreditation date.

(c)—(e) (text unchanged)

(2) (text unchanged)

C. (text unchanged)

.14 Lead Paint Inspector Technician Accreditation Requirements.

A. General Requirements.

(1) (text unchanged)

(2) A lead paint inspector technician shall have received, as proof of training and accreditation, an identification card and a certificate indicating an expiration date which is **[**24**]** *36* months following the accreditation date.

(3)—(4) (text unchanged)

B. (text unchanged)

.15 Lead Paint Visual Inspector Accreditation Requirements.

A. General Requirements. A lead paint visual inspector shall have:

(1) (text unchanged)

(2) Received, as proof of training, a certificate and identification card indicating an expiration date which is **[**24**]** *36* months following the accreditation date; and

(3) (text unchanged)

B. (text unchanged)

.16 Lead Paint Risk Assessor Accreditation Requirements.

A. General Requirements.

(1) A lead paint risk assessor shall have:

(a) (text unchanged)

(b) Received, as proof of training and accreditation, an identification card and a certificate indicating an expiration date which is **[**24**]** *36* months following the accreditation date.

(2)—(3) (text unchanged)

B. (text unchanged)

C. Experience.

(1) A lead paint risk assessor shall have:

(a) (text unchanged)

(b) Satisfied one of the following:

(i) (text unchanged)

(ii) Conducted at least five lead-based paint inspections under COMAR **[**26.16.05.09**]** *26.16.05.06* and .10 and 15 lead dust inspections from at least 15 separate residential units, public buildings, or commercial properties.

(2)—(3) (text unchanged)

.17 Training Provider Accreditation Requirements.

A.—B. (text unchanged)

C. Requirements for Training Course Accreditation Renewal.

(1) A training provider shall submit to the Department, **[**within 1 year**]** *at least 6 months* **[**of**]** *before the expiration of* the training course accreditation **[**date**]** or most recent renewal, a written request for training course accreditation renewal.

(2) (text unchanged)

(3) Unless the Department approves the written request for accreditation renewal and approves an audit of a training class conducted by the training provider implementing the curriculum with changes as indicated in the request for accreditation renewal, the training provider's accreditation expires after **[**1**]** *3* years.

D.—E. (text unchanged)

.18 Lead Abatement Instructor Requirements.

A. Accreditation.

(1) (text unchanged)

(2) The Department may issue a certificate to an instructor who meets the qualifications specified in this regulation. The certificate shall:

(a) (text unchanged)

(b) Indicate an expiration date which is **[**12**]** *36* months following the date of the instructor accreditation examination or examinations.

(3)—(6) (text unchanged)

[(7) An individual who has served as an instructor in a worker training course approved by the Department under COMAR 26.02.07.11 satisfies the training and experience required by §A(6) of this regulation to serve as an instructor for a lead paint abatement worker training course.**]**

B. (text unchanged)

C. Instructor accreditation under this regulation is not required for an accredited lead paint maintenance and repainting supervisor to provide documented on-the-job training to a worker under Regulation .07 of this chapter.

.18-1 Stop Work Orders.

A. The Department may issue a stop work order when it determines that a lead abatement project is being performed in violation of any provision of this chapter or other applicable regulatory requirement.

B. A stop work order shall be in writing, signed by an authorized representative of the Department, and shall contain the following:

(1) Name of the violator;

(2) Factual findings of the Department;

(3) Description of the location of the violation;

(4) Statute or regulation that the Department believes to have been violated;

(5) Description of the remedial measures to be taken and a time limit including a schedule for interim steps; and

(6) Notice of the opportunity for a hearing.

C. Upon issuance of a stop work order, the violator shall immediately cease all lead abatement activities as specified in the order and shall immediately take steps to abate the violation or violations.

D. A stop work order shall remain in effect until the violation has been corrected and until the Department has modified or terminated the stop work order in writing.

E. By written notice, the Department may modify or terminate a stop work order for good cause shown.

F. The Department may terminate a stop work order in writing when it determines that all violations in the stop work order have been corrected and that the lead abatement project is in compliance with this chapter or other regulatory requirements.

G. Termination of the stop work order does not preclude legal action by the State relating to the present or a subsequent violation.

.19 Suspension or Revocation of Accreditation or Training Identification Card.

A. The Department may suspend or revoke the accreditation or training identification card of a person accredited or trained under provisions of this chapter if the person:

(1)—(6) (text unchanged)

(7) Performs an activity at a job site, requiring accreditation or training, without being in physical possession of a current accreditation certificate, **[**or**]** training identification card, *or documentation of on-the-job training*.

B.—C. (text unchanged)

.20 Fees.

A.—C. (text unchanged)

D. An applicant for accreditation to provide a lead paint abatement service shall submit an application fee in accordance with the following schedule:

Service	Application Fee
(1) Lead paint abatement services contractor—	**[**$250**]** *$375*;
(2) Lead paint removal and demolition supervisor—	**[**150**]** *$225*;
(3) Lead paint maintenance and repainting supervisor—	**[**125**]** *$187.50*;
(4) Lead paint inspector technician—	**[**125**]** *$187.50*;
(5) Lead paint visual inspector—	**[**125**]** *$187.50*;
(6) Lead paint risk assessor—	**[**200**]** *$300*;
[(7) Project designer—	150**]**;
[(8)**]** *(7)* Structural steel supervisor—	**[**150**]** *$225*;
[(9)**]** *(8)* Training provider—	**[**300**]** *$1,200*;
[(10)**]** *(9)* Third-party certification examination fee *	**[**35**]** *$50*.

*Only applies to removal and demolition supervisors, inspector technicians, and risk assessors.

E.—F. (text unchanged)

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Title 29
DEPARTMENT OF STATE POLICE

Subtitle 01 OFFICE OF THE SECRETARY

29.01.05 Petition for Declaratory Ruling

Authority: State Government Article, §§10-301—10-305, Annotated Code of Maryland

Notice of Proposed Action

[15-072-P]

The Secretary of State Police proposes to adopt new Regulations **.01—.05** under a new chapter, **COMAR 29.01.05 Petition for Declaratory Ruling**.

Statement of Purpose

The purpose of this action is to establish regulations for a person to submit a petition for a declaratory ruling to the Secretary of the Department of State Police.

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 Thomas L. Vondersmith, Jr., Administrator, Department of State Police, 1201 Reisterstown Road, Pikesville, MD 21208, or call 410-653-4253, or email to thomas.vondersmith@maryland.gov, or fax to 410-653-4250. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) "Declaratory ruling" means a ruling made by a promulgating authority with respect to the manner in which the promulgating authority would apply a regulation or order of the promulgating authority, or a statute that the promulgating authority enforces, to a person or a property based on a given set of facts.

(2) "Department" means the Department of State Police.

(3) "Person" means:

(a) An individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind;

(b) A partnership, firm, association, corporation, or other entity; and

(c) A political subdivision of the State or an instrumentality of a political subdivision.

(4) "Promulgating authority" means the promulgating authority's designee or an officer or unit of the Department that is authorized by law to adopt regulations subject to State Government Article, §§10-101—10-139, Annotated Code of Maryland, or

adjudicate contested cases subject to State Government Article, §§10-201—10-207, Annotated Code of Maryland.

(5) "Secretary" means the Secretary of the Department of State Police.

.02 Who May File.

Any interested person may file a petition for a declaratory ruling with respect to the applicability to any person, property, or state of facts of any regulation promulgated by any unit of the Department, of an order of a unit of the Department, or of any statute enforceable by any unit.

.03 Where to File.

A petition with respect to the applicability of any regulation, order, or statute enforceable by any unit of the Department shall be filed with the Secretary of the Department of State Police for consideration and disposition.

.04 Petition Format.

A. A petition for Declaratory Ruling shall be filed in writing and clearly marked to indicate that it is being filed pursuant to this regulation. It shall describe in detail:

(1) The interest of the petitioner in making the request;

(2) The issues involved;

(3) A statement of the facts;

(4) A list of documents or statements the petitioner believes should be considered; and

(5) A sworn statement by the petitioner that the facts contained in the petition are true to the best of the person's knowledge and belief.

B. A petition for Declaratory Ruling shall include the petitioner's:

(1) Name;

(2) Address;

(3) Telephone number;

(4) E-mail address; and

(5) Facsimile number, if available.

.05 Consideration and Disposition.

A. The Secretary shall consider the petition and may, at his discretion, issue the declaratory ruling requested. The Secretary may require argument on the petition. Any declaratory ruling issued shall plainly state that it is a declaratory ruling pursuant to this regulation. A written answer from the Secretary or any employee of the Department to an inquiry may not be construed to be a declaratory ruling unless made in conformity with this regulation.

B. As to the petitioner, a declaratory ruling shall be binding upon the Secretary as to any transaction covered thereby, entered into before the date of the declaratory ruling, and any transaction entered into in reliance upon the declaratory ruling unless, after the issuance of the declaratory ruling and before any affected transaction, a change in the legal basis of the declaratory ruling is made by statute, regulation, or judicial decision. With prospective effect only, a declaratory ruling may be revoked, altered, or amended by the Secretary, at any time.

C. The Secretary may publish declaratory rulings of general interest, subject to protection of the identity of the petitioner and any confidential information contained in the petition for declaratory ruling.

MARCUS L. BROWN
Secretary of State Police

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

Subtitle 08 DESIGNATION OF TRAUMA AND SPECIALTY REFERRAL CENTERS

Notice of Proposed Action

[15-077-P]

The State Emergency Medical Services Board proposes to amend:

(1) Regulation **.02** under **COMAR 30.08.01 General Provisions**; and

(2) Regulations **.01—.15** under **COMAR 30.08.12 Perinatal and Neonatal Referral Center Standards**.

This action was considered and approved by the State Emergency Medical Services Board at its regular meeting on December 9, 2014.

Statement of Purpose

The purpose of this action is to is to make the standards for designation of perinatal and neonatal referral centers consistent with the standards developed by the Perinatal Clinical Advisory Committee to the Secretary of Health and Mental Hygiene it its most recent document, Maryland Perinatal System Standards, Revised 2014.

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 Carla Bailey, Director, Perinatal Programs, Maryland Institute for Emergency Medical Services Systems, 653 West Pratt Street, Baltimore, Maryland, 21201, or call (410)706-3931, or email to cbailey@miemss.org, or fax to (410)706-0853. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

30.08.01 General Provisions

Authority: Education Article, §13-509, Annotated Code of Maryland

.02 Definitions.

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

B. Terms Defined.

(1)—(42) (unchanged)

(43) **[**"Level IIIA perinatal referral center" means a hospital that:

(a) Meets the Level IIIA perinatal referral center standards in COMAR 30.08.12; and

(b) Is designated by MIEMSS and approved by the EMS Board as capable of providing medical intensive care to newborns greater than:

(i) 28 weeks gestational age, or

(ii) 1000 grams.**]** *Repealed.*

(44) "Level III**[**B**]** perinatal referral center" means a hospital that:

(a) Meets the Level III**[**B**]** perinatal referral center standards in COMAR 30.08.12;

[(b) Is within 30 minutes travel time of a Level IIIC perinatal referral center;**]** and

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

(i)—(ii) (text unchanged)

(45) (unchanged)

(46) "Level **[**IIIC**]** *IV* perinatal referral center" means a hospital that:

(a) Meets the Level **[**IIIC**]** *IV* perinatal referral center standards in COMAR 30.08.12; and

(b) (text unchanged)

(47)—(97) (unchanged)

30.08.12 Perinatal and Neonatal Referral Center Standards

Authority: Education Article, §13-509, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Dedicated" means a resource is assigned to or for the exclusive use by a unit and not shared with any other unit

[(2)**]** *(3)*—**[**(5)**]** *(6)* (text unchanged)

(7) "Readily available" means a resource is available for use a short time after it is requested.

(8) "Telemedicine" means the use of interactive audio, video, or other telecommunications or electronic technology by a licensed health care provider to deliver a health care service within the scope of practice of the health care provider at a site other than the site at which the patient is located, in compliance with COMAR 10.32.05.and including at least two forms of communication.

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

[(7) "Urgently available" means a source available within 30 minutes.**]**

.02 Types of Perinatal Referral Centers.

A. **[**"IIIA" is a Level IIIA perinatal referral center**]** *"III" is a Level III perinatal referral center.*

B. **[**"IIIB" is a Level IIIB perinatal referral center**]** *"IV" is a Level a Level IV perinatal referral center.*

[C. "IIIC" is a Level IIIC perinatal referral center.**]**

.03 Organization.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A. The hospital's Board of Directors, administration, and medical and nursing staffs shall demonstrate commitment to its specific level of perinatal center designation and to the care of perinatal patients. This commitment shall be demonstrated by:			
(1) A Board resolution that the hospital agrees to meet the Maryland Perinatal System Standards for its specific level of designation;	**[**E**]**	E	E
(2) Participation in the Maryland Perinatal System, as described by this document, including submission of patient care data to the Maryland Department of Health and Mental Hygiene (DHMH) and the Maryland Institute for Emergency Medical Services Systems (MIEMSS), as appropriate, for system and quality management;	**[**E**]**	E	E
(3) Assurance that all perinatal patients shall receive medical care commensurate with the level of the hospital's designation; and	**[**E**]**	E	E
(4) A Board resolution, bylaws, contracts, and budgets, all specific to the perinatal program, indicating the hospital's commitment to the financial, human, and physical resources and to the infrastructure that are necessary to support the hospital's level of perinatal center designation.	**[**E**]**	E	E
B. The hospital shall be licensed by the Maryland Department of Health and Mental Hygiene (DHMH) as an acute care hospital.	**[**E**]**	E	E
C. The hospital shall be Joint Commission accredited.	**[**E**]**	E	E
D. The hospital shall have a certificate of need (CON) issued by the Maryland Health Care Commission (MHCC) for its neonatal intensive care unit and/or approval from the Health Services Cost Review Commission (HSCRC) for a neonatal intensive care unit cost center.	**[**E**]**	E	E
E. The hospital shall obtain and maintain current equipment and technology, as described in these standards, to support optimal perinatal care for the level of the hospital's perinatal center designation.	**[**E**]**	E	E
F. If maternal or neonatal air transports are accepted, then the hospital shall have a heliport, helipad, or access to a helicopter landing site near the hospital.	**[**E**]**	E	E
G. The hospital shall provide specialized maternal and neonatal transport capability and have extensive Statewide perinatal educational outreach programs in both specialties in collaboration with the Maryland Institute for Emergency Medical Services Systems (MIEMSS) and the Maryland Department of Health and Mental Hygiene (DHMH).	**[**O**]**	O	E

.04 Obstetrical Unit Capabilities.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall:			
A. Demonstrate its capability of providing uncomplicated and complicated obstetrical care through written standards, protocols, or guidelines, including those for the following:			
(1) Unexpected obstetrical care problems;	**[**E**]**	E	E
(2) Fetal monitoring, including internal scalp electrode monitoring;	**[**E**]**	E	E
(3) Initiating a cesarean delivery within 30 minutes of the decision to deliver;	**[**E**]**	E	E
(4) Selection and management of obstetrical patients at a maternal risk level appropriate to its capability; or	**[**E**]**	E	E
(5) Management of all obstetrical patients.	**[**NA**]**	NA	E
B. Be capable of providing critical care services appropriate for obstetrical patients, as demonstrated by having a critical care unit and a board-certified critical care specialist as an active member of the medical staff.	**[**E**]**	E	E
C. Have a written plan for initiating maternal transports to an appropriate level.	**[**E**]**	E	E
D. Have a written protocol for the acceptance of maternal transports in place.	**[**E**]**	E	E

.05 Neonatal Unit Capabilities.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall demonstrate its capability of providing uncomplicated and complicated neonatal care through written standards, protocols, or guidelines, including those for the following:			
A. Resuscitation and stabilization of unexpected neonatal problems according to the most current Neonatal Resuscitation Program (NRP) guidelines;	**[**E**]**	E	E
B. Selection and management of neonatal patients at a neonatal risk level appropriate to its capability; or	**[**E**]**	E	E
C. Management of all neonatal patients, including those requiring advanced modes of neonatal ventilation and life-support, pediatric subspecialty services, and pediatric subspecialty surgical services **[**such as pediatric cardio-thoracic open-heart surgery and pediatric neurosurgery**]**.	**[**NA**]**	NA	E

.06 Obstetric Personnel.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall have:			
A. A physician board-certified in obstetrics and gynecology who shall be a member of the medical staff and have responsibility for programmatic management of obstetrical services;	**[**E**]**	E	E
B. A physician (or physicians) board-certified or an active candidate for board-certification in maternal-fetal medicine and who shall be a member of the medical staff and have responsibility for programmatic management of high-risk obstetrical services;	**[**E**]**	E	E
C. A maternal-fetal medicine physician on the medical staff, in active practice and, if needed, in-house within 30 minutes;	**[**E**]**	E	E
D. A physician board-certified or an active candidate for board-certification in obstetrics/gynecology who shall be present in-house 24 hours a day and immediately available to the delivery area when a patient is in active labor;	**[**E**]**	E	E
E. A physician or certified nurse-midwife (with obstetrical privileges) who shall be present at all deliveries; and	**[**E**]**	E	E
F. A physician board-certified or an active candidate for board-certification in anesthesiology who shall be a member of the medical staff and have responsibility for programmatic management of obstetrical anesthesia services.	**[**E**]**	E	E

.07 Pediatric Personnel.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall have:			
A. A physician (or physicians) board-certified in neonatal-perinatal medicine who is a member of the medical staff and has full-time responsibility for neonatal special care or intensive care unit services;	**[**E**]**	E	E
B. Neonatal Resuscitation Program (NRP) trained professional(s) with experience in acute care of the depressed newborn and skilled in neonatal endotracheal intubation and resuscitation immediately available to the delivery and neonatal units;	**[**E**]**	E	E
[C. A physician who has completed postgraduate pediatric training, a nurse practitioner, or a physician assistant with privileges for neonatal care appropriate to the level of the nursery and who shall be immediately available 24 hours a day;**]**	**[**E**]**	**[**NA**]**	**[**NA**]**
[D.**]** *C.* A physician who has completed postgraduate pediatric training, a nurse practitioner, or a physician assistant with privileges for neonatal care appropriate to the level of the nursery and who shall be present in-house 24 hours a day and assigned to the delivery area and neonatal units and not shared with other units in the hospital;	**[**O**]**	E	E
[E.**]** *D.* A physician board-certified or an active candidate for board certification in neonatal-perinatal medicine and who shall be available to be present in-house within 30 minutes;	**[**E**]**	E	E

[F.**]** *E*. An ophthalmologist on staff with experience in neonatal retinal examination and *an organized program for the monitoring, treatment and follow up of retinopathy of prematurity* **[**a written consulting relationship with pediatric cardiologist(s) and pediatric surgeon(s)**]**;	**[**E**]**	E	**[**NA**]** *E*
[G.**]** *F*. The following pediatric specialists on staff, in active practice and, if needed, *readily available* in-house *or via telemedicine* **[**within 30 minutes**]**: (1) Cardiology; (2) Neurology; and (3) **[**Genetics**]** *General Pediatric Surgery;*	**[**O**]**	E	**[**E**]** *NA*
[H.**]** *G*. **[**One or more pediatric general surgeons**]** *The following pediatric subspecialties on staff, in active practice and, if needed, in-house within 30 minutes: cardiology, endocrinology, gastroenterology, genetics, hematology, nephrology, neurology, and pulmonology; and*	**[**O**]**	O	E
[I. The following pediatric specialists on staff, in active practice and, if needed, in-house within 30 minutes: (1Hematology; (2) Endocrinology; (3) Pulmonary; (4) Gastrointestinal; and (5) Renal; and**]**	**[**O**]**	**[**O**]**	**[**E**]**
[J.**]** *H. General Pediatric Surgery and* **[**The**]** *the* following pediatric surgical subspecialists on staff, in active practice and, if needed, in-house within 30 minutes: (1) Neurosurgery; (2) Cardiothoracic surgery; (3) Orthopedic surgery; (4) Plastic surgery; and (5) Ophthalmology.	**[**O**]**	O	E

.08 Other Personnel.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall have:			
A. A physician board-certified or an active candidate for board certification in anesthesiology or nurse-anesthetist who shall be available so that cesarean delivery may be initiated per hospital protocol within 30 minutes of the decision to deliver;	**[**E**]**	E	E
B. A physician board-certified or an active candidate for board-certification in anesthesiology who shall be present in-house 24 hours a day, readily available to the delivery area;	**[**E**]**	E	E
C. If the hospital performs neonatal surgery, a board-certified anesthesiologist with experience in neonatal anesthesia who shall be present for the surgery;	**[**E**]**	E	E
D. A physician on the medical staff with privileges for providing critical interventional radiology services for:			
(1) Obstetrical patients; and	**[**E**]**	E	E
(2) Neonatal patients;	**[**NA**]**	O	E
E. Obstetric and neonatal diagnostic imaging available 24 hours a day, with interpretation by physicians with experience in maternal and/or neonatal disease and its complications;	**[**E**]**	E	E
F. A registered dietician or other health care professional with knowledge of and experience in **[**adult and neonatal parenteral/enteral high-risk management**]** *the management of obstetrical and neonatal parenteral/enteral nutrition* on staff;	**[**E**]**	E	E
G. *At least one* ***[***An**]** International Board Certified Lactation Consultant on full-time staff who shall have programmatic responsibility for lactation support services which shall include education and training of additional hospital staff members in order to ensure availability 7 days per week of dedicated lactation support;	**[**E**]**	E	E
H. A licensed social worker with a Master's degree, (either an LGSW, Licensed Graduate Social Worker, or an LCSW, Licensed Certified Social Worker) and experience in psychosocial assessment and intervention with women and their families dedicated to the perinatal service;	**[**E**]**	E	E
I. A licensed social worker with a Master's degree (either an LGSW, Licensed Graduate Social Worker, or an LCSW, Licensed Certified Social Worker) and experience in psychosocial assessment and intervention with women and their families dedicated to the NICU;	**[**O**]**	E	E
J. Respiratory therapists skilled in neonatal ventilator management:			
(1) Present in-house 24 hours a day; and	**[**E**]**	E	NA
(2) Assigned to the NICU and not shared with other units 24 hours a day;	**[**O**]**	O	E
K. At least one occupational or physical therapist with neonatal expertise;		*E*	*E*
L. At least one individual skilled in evaluation and management of neonatal feeding and swallowing disorders such as a speech-language pathologist;		*E*	*E*
[K.**]** *M*. Genetic diagnostic and counseling services or written consultation and referral agreements for these services in place;	**[**E**]**	E	E
[L.**]** *N*. A pediatric neurodevelopmental follow-up program or written referral agreements for neurodevelopmental follow-up;	**[**E**]**	E	E
[M.**]** *O*. On its administrative staff a registered nurse with a Master's or higher degree in nursing or a health-related field and experience in high-risk obstetrical and neonatal nursing who shall have programmatic responsibility for the obstetrical and neonatal nursing services;	**[**E**]**	E	E
[N.**]** *P*. **[**A perinatal program with nurses that shall have special expertise in obstetrical and neonatal nursing identified for staff education**]** *On its perinatal program staff a registered nurse with a Master's or higher degree in nursing and experience in high-risk obstetrical and/or neonatal nursing responsible for staff education*;	**[**E**]**	E	E
[O.**]** *Q*. A perinatal service that shall have: (1) A registered nurse skilled in the recognition and nursing management of complications of labor and delivery readily available if needed to the labor and delivery unit 24 hours a day; (2) A registered nurse skilled in the recognition and management of complications in women and newborns readily available to the obstetrical unit 24 hours a day; (3) A registered nurse with demonstrated training and experience in the assessment, evaluation, and care of patients in labor, present at all deliveries; and (4) A registered nurse with	**[**E**]**	E	E

demonstrated training and experience in the assessment, evaluation, and care of newborns, readily available to the neonatal unit 24 hours a day;			
[P.**]** *R*. A perinatal program that performs neonatal surgery with nurses on staff that shall have special expertise in perioperative management of neonates; and	**[**E**]**	E	E
[Q.**]** *S*. A written plan for assuring registered nurse/patient ratios as per current Guidelines for Perinatal Care *and Association of Women's Health, Obstetric and Neonatal Nurses (AWHONN) Guidelines* .	**[**E**]**	E	E

.09 Laboratory.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall:			
A. In conjunction with the hospital laboratory and the programmatic leaders of the perinatal service, establish laboratory processing and reporting times to ensure that these are appropriate for samples drawn from obstetric and neonatal patients with specific consideration for the acuity of the patient and the integrity of the samples.	**[**E**]**	E	E
B. Demonstrate the capability to immediately receive, process, and report urgent/emergent obstetric and neonatal laboratory requests.	**[**E**]**	E	E
C. Have a process in place to report critical results to the obstetric and neonatal services.	**[**E**]**	E	E
D. Make laboratory results from standard maternal antepartum testing available to the providers caring for the mother and the neonate prior to discharge. If test results are not available or if testing was not performed prior to admission, such testing shall be performed during the hospitalization of the mother and results available prior to discharge of the newborn.	**[**E**]**	E	E
E. Have the capacity to conduct rapid HIV testing 24 hours a day.	**[**E**]**	E	E
[F. Have a laboratory capable of performing the following tests 24 hours a day: (1) Fetal scalp blood pH, if fetal scalp blood pH testing is being utilized at the hospital; and (2) Fetal lung maturity tests.**]**	**[**E**]**	**[**E**]**	**[**E**]**
[G.**]** *F*. Have available the equipment and trained personnel to perform newborn hearing screening prior to discharge on all infants born at or transferred to the institution as required by **[**the Universal Newborn Hearing Screening, Diagnosis, and Intervention Guidelines**]** *COMAR 10.11.02*.	**[**E**]**	E	E
G. The equipment and trained personnel to perform critical congenital heart disease screening prior to discharge on all infants born at or transferred to the institution and report screening results as required by COMAR 10.52.15;			
H. Have blood bank technicians present in-house 24 hours a day.	**[**E**]**	E	E
I. Have molecular, cytogenetic, and biochemical genetic testing available or written consultation and referral agreements for these services in place.	**[**E**]**	E	E

.10 Diagnostic Imaging Capabilities.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall have:			
A. **[**Portable obstetric ultrasound equipment, with the services of appropriate support present in the delivery area**]** *The capability of providing emergency ultrasound imaging and interpretation for obstetrical patients 24 hours per day*;	**[**E**]**	E	E
B. **[**Portable x-ray equipment, with the services of appropriate support available to the neonatal units**]** *The capability of providing portable x-ray imaging and interpretation for neonatal patients 24 hours a day*;	**[**E**]**	E	E
C. **[**Portable head ultrasound for newborns, with the services of appropriate support staff available to the neonatal units**]** *The capability of providing portable head ultrasound and interpretation for neonatal patients*;	**[**E**]**	E	E
D. **[**Computerized tomography (CT) capability, with the services of appropriate support staff available on campus**]** *The capability on campus of providing computerized tomography (CT) and magnetic resonance imaging (MRI)*;	**[**E**]**	E	E
[E. Magnetic resonance imaging (MRI) capability, with the services of appropriate support staff available on campus;**]**	**[**E**]**	E	E
[F.**]** *E*. Neonatal echocardiography equipment and experienced technician available on campus as needed with interpretation by pediatric cardiologist;	**[**E**]**	E	E
[G.**]** *F*. A pediatric cardiac catheterization laboratory and appropriate staff; and	**[**O**]**	O	E
[H.**]** *G*. Equipment for performing interventional radiology services for:			
(1) Obstetrical patients; and	**[**E**]**	E	E
(2) Neonatal patients.	**[**NA**]**	O	E

.11 Equipment.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall have:			
A. All of the following equipment and supplies immediately available for existing patients and for the next potential patient: (1)—(3) (text unchanged) (4) Bag and masks *and/or T-piece resuscitator* capable of delivering a controlled concentration of oxygen to the infant;		E	E

(5)—(13) (text unchanged) (14) Resuscitation equipment for mothers **[**and neonates**]**; *(15) Resuscitation equipment for neonates including equipment outlined in the current NRP;* **[**(15)**]** *(16)* (text unchanged) **[**(16)**]** *(17)* Emergency call system *for both obstetrical and neonatal units as well as an emergency communication system among units*.			
B. A neonatal **[**intensive care unit**]** *stabilization* bed set up and equipment available at all times for an emergency admission;	**[**E**]**	E	E
C. Fetal diagnostic testing and monitoring equipment for:			
(1) **[**Non-stress and stress testing**]** Fetal heart rate monitoring;	**[**E**]**	E	E
(2) Ultrasound examinations; and	**[**E**]**	E	E
(3) Amniocentesis;	**[**E**]**	E	E
D. The capability to monitor neonatal intra-arterial pressure;	**[**E**]**	E	E
E. **[**Laser coagulation capability for retinopathy of prematurity**]** *The capability on campus of providing laser coagulation for retinopathy of prematurity;*	**[**O**]**	E	E
F. *The capability on campus of providing* **[**A**]** a full range of invasive maternal monitoring **[**available to the delivery area**]**, including equipment for central venous pressure and arterial pressure monitoring;	**[**E**]**	E	E
G. Appropriate equipment, including back-up equipment, for neonatal respiratory care as well as protocols for the use and maintenance of the equipment as required by its defined level status; **[**and**]**	**[**E**]**	E	E
H. The capability of providing advanced ventilatory support for neonates of all birth weights**[**.**]***; and*	**[**NA**]**	O	E
I. The capability of providing continuing therapeutic hypothermia.		*E*	*E*

.12 Medications.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall have:			
A. Emergency medications, as listed in the Neonatal Resuscitation Program of the American Academy of Pediatrics/American Heart Association (AAP/AHA), present in the delivery area and neonatal units;	**[**E**]**	E	E
B. The following medications immediately available to the neonatal units:			
(1) Antibiotics, anticonvulsants, and emergency cardiovascular drugs; and	**[**E**]**	E	E
(2) Surfactant, prostaglandin E1;	**[**E**]**	E	E
C. All emergency resuscitation medications to initiate and maintain resuscitation, in accordance with Advanced Cardiac Life Support (ACLS) guidelines, present in the delivery area; and	**[**E**]**	E	E
D. The following medications in the delivery area **[**or immediately available to the delivery area**]**: (1) Oxytocin (Pitocin); (2) Methylergonovine (Methergine); (3) 15-methyl prostaglandin F2 (Prostin); (4) Misoprostol (Cytotec); and (5) Carboprost tromethamine (Hemabate).	**[**E**]**	E	E

.13 Education Programs.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall:			
A. Identify minimum competencies for perinatal clinical staff, not otherwise credentialed, that are assessed prior to independent practice and on a regular basis thereafter;	**[**E**]**	E	E
B. Provide continuing education programs for physicians, nurses, and allied health personnel on staff concerning the treatment and care of obstetrical and neonatal patients; and	**[**E**]**	E	E
C. Accept maternal or neonatal primary transports and provide the following to the referring hospital/providers: (1) Guidance on indications for consultation and referral of patients at high risk; (2) Information about the accepting hospital's response times and clinical capabilities; (3) Information about alternative sources for specialized care not provided by the accepting hospital; (4) Guidance on the pretransport stabilization of patients; and (5) Feedback on the pretransport care of patients.	**[**E**]**	E	E

.14 Performance Improvement.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall:			
A. Have a multi-disciplinary, continuous quality improvement program for improving maternal and neonatal health outcomes that includes initiatives to promote patient safety including safe medication practices, Universal Protocol to prevent surgical error, and educational programs to improve communication and team work.	**[**E**]**	E	E
B. Conduct internal perinatal case reviews which include all maternal, intrapartum fetal, and neonatal deaths, as well as all maternal and neonatal transports.	**[**E**]**	E	E
C. Utilize a multi-disciplinary forum, to conduct quarterly performance reviews of the perinatal program. This review shall include a review of trends, all deaths, all transfers, all very low birth weight infants, problem identification and solution, issues identified from the quality management process, and systems issues.	**[**E**]**	E	E

D. Participate with the Department of Health and Mental Hygiene and local health department Fetal and Infant Mortality Review and Maternal Mortality Review programs.	**[**E**]**	E	E
E. Participate in the collaborative collection and assessment of data with the Department of Health and Mental Hygiene and the Maryland Institute for Emergency Medical Services Systems, **[**through the Vermont Oxford Network**]**, for the purpose of improving perinatal health outcomes**[.]**; *and*	**[**E**]**	E	E
F Maintain membership in the Vermont Oxford Network.		*E*	*E*

.15 Policies and Protocols.

	[IIIA**]**	III**[**B**]**	**[**IIIC**]** *IV*
A hospital shall have:			
A. Written policies and protocols for the initial stabilization and continuing care of all obstetrical and neonatal patients appropriate to the level of care rendered at its facility;	**[**E**]**	E	E
B. Maternal and neonatal resuscitation protocols;	**[**E**]**	E	E
C. A medical staff credentialing process that shall include documentation to perform obstetrical and neonatal invasive procedures appropriate to its designated level of care;	**[**E**]**	E	E
D. Written guidelines for accepting or transferring mothers or neonates as "back transports" including criteria for accepting the patient and patient information on required care;	**[**E**]**	E	E
E. A licensed neonatal transport service or written agreement with a licensed neonatal transport service; **[**and**]**	**[**E**]**	E	E
F. Policies that allow families (including siblings) to be together in the hospital following the birth of an infant and that promote parental involvement in the care of the neonate including the neonate in the NICU**[.]**;	**[**E**]**	E	E
G. A policy to eliminate deliveries by induction of labor or by cesarean section prior to 39 weeks gestation without a medical indication with a systematic internal review process to evaluate any occurrences and a plan for corrective action; and		*E*	*E*
H. A written protocol to respond to massive obstetrical hemorrhage, including a plan to maximize accuracy in determining blood loss.		*E*	*E*

KEVIN G. SEAMAN, M.D., FACEP
Executive Director

Title 31
MARYLAND INSURANCE ADMINISTRATION

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.21 Private Review Agents

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

Notice of Proposed Action

[15-076-P]

The Insurance Commissioner proposes to amend Regulation **.02-1** under **COMAR 31.10.21 Private Review Agents**.

Statement of Purpose

The purpose of this action is to amend the Uniform Treatment Plan Form to: (1) remove out-of-date references to DSM-IV codes, which were replaced by new DSM-5 codes that were released in May of 2013; and (2) expand the Uniform Treatment Plan Form to include more detail about the patient's condition. The amended Uniform Treatment Form is used in utilization review of services for the treatment of mental illnesses, emotional disorders, or a substance abuse disorder. In accordance with Insurance Article, §15-10B-03(h), Annotated Code of Maryland, the amended Uniform Treatment Form was developed by a committee that included the League of Life and Health Insurers of Maryland, the major carriers in Maryland, including CareFirst BlueCross BlueShield, the Maryland Hospital Association, the Medical and Chirurgical Faculty of Maryland, the Maryland Psychological Association, the Maryland Psychiatric Society, mental health private review agents, and mental health providers.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed amendments to this chapter will have a minimal impact on regulated industries and mental health providers in that they will need to use a new Uniform Treatment Plan form for utilization review of services for the treatment of mental illness, emotional disorder, or a substance abuse disorder.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
	Benefit (+) Cost (-)	**Magnitude**
D. On regulated industries or trade groups:	(+)	minimal
E. On other industries or trade groups:	(+)	minimal

F. Direct and indirect effects on public: NONE

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

D. The proposed amendments to this chapter will have a minimal impact on regulated industries because private review agents will be required to provide and use the amended Uniform Treatment Plan form for utilization review of services for the treatment of mental illness, emotional disorder, or a substance abuse disorder. If the private review agent has a supply of the prior Uniform Treatment Plan forms, these will no longer be acceptable. The cost to produce new forms would be a minimal amount.

E. Health care providers that are seeking approval for treatment plans involving mental illness, emotional disorder or a substance abuse disorder will also be required to use the amended Uniform Treatment Plan form. If the health care provider has a supply of the prior Uniform Treatment Plan forms, these will no longer be acceptable. The cost to produce new forms would be a minimal amount.

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 Nancy Egan, Director of Government Relations, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2488, or email to nancy.egan@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.02-1 Uniform Treatment Plan.

A. — G. (text unchanged)

H. The uniform treatment plan form required by this regulation shall read as follows:

Note: The revised form appears at the end of the Proposed Action on Regulations section of this issue of the Maryland Register.

I. (text unchanged)

THERESE M. GOLDSMITH
Insurance Commissioner

Subtitle 12 HEALTH MAINTENANCE ORGANIZATIONS; ENTITIES THAT ACT AS HEALTH INSURERS

Notice of Proposed Action

[15-047-P]

The Insurance Commissioner proposes to amend:

(1) The **Authority Line** under **COMAR 31.12.01 Health Maintenance Organizations — Certificate of Authority and Fiscal Requirements**;

(2) Regulation **.02** under **COMAR 31.12.03 Health Maintenance Organizations — Mandatory Point-of-Service Option**;

(3) Regulations **.02** and **.04** under **COMAR 31.12.04 Dental Plans — General Provisions**;

(4) Regulation **.02** under **COMAR 31.12.05 Dental Benefit Plan Coverage — Mandatory Point-of-Service Option**;

(5) The **Authority Line** under **COMAR 31.12.06 Managed Care Organizations — Financial Compliance Requirements**; and

(6) Regulations **.04** and **.05** under **COMAR 31.12.07 Required Standard Provisions**.

Statement of Purpose

The purpose of this action is to make changes to COMAR 31.12 consistent with the MIA's review of this subtitle under the Regulatory Review and Evaluation Act.

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 Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 Saint Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2201, or email to catherine.grason@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

31.12.01 Health Maintenance Organizations — Certificate of Authority and Fiscal Requirements

Authority: Health-General Article, §§**[**19-701(e),**]** 19-705(a), *19-707*, 19-708**[**(b)(10)**]**, 19-710**[**(d) and (h)**]**, and 19-728, Annotated Code of Maryland

31.12.03 Health Maintenance Organizations — Mandatory Point-of-Service Option

Authority: Health-General Article, §§19-705(a)(2) and 19-710.2, Annotated Code of Maryland

.02 Required Notice.

When a health maintenance organization is the sole carrier offered to group members by a group policyholder, the health maintenance organization:

A.—B. (text unchanged)

C. As part of the application, shall provide to each group policyholder the following disclosure statement, for each point-of-service option offered:

"Under Maryland law, *if you choose a point-of-service option for your group members*, your group member may **[**purchase**]** *select* a point-of-service option as an additional benefit. A point-of-service option allows your group members to obtain health care services from physicians and other providers outside the HMO network under certain circumstances that are described in attachment A. You have the choice to either pay for this point-of-service option, pay a percentage of the cost of this option, or require your group members to pay for the entire cost of this option. The cost of the point-of-service option described in attachment A is identified in your proposal. **[**Please indicate below the group members who have chosen this point-of-service option.**]**

I have read and understand this disclosure statement and the attachments and **[**have provided**]**, *if I have chosen the point-of-service option, I will provide* notice of the availability of this additional benefit to my eligible group members. Group Policyholder Signature"

31.12.04 Dental Plans — General Provisions

Authority: Insurance Article, §§2-109, 14-124(b), **[**14-401, 14-403, 14-405,**]** 14-410, 14-412, **[**15-112(b)(2)(ii)**]** *15-112(b)(1)(i)*, 15-122(b), 15-833(j), and Title 15, Subtitles 10A and 10D, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Closed panel dental benefit contract" means a dental benefit contract that does not provide benefits for services provided by a dentist who is not a plan dentist, with the exception of:

(a) Emergency services; and

(b) Out-of-network services required by Insurance Article, §15-830, Annotated Code of Maryland.

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

[(3)**]** *(4)* "Dental benefit contract" means a contract which provides benefits for dental services entered into between the dental plan organization and:

(a) An individual contract holder covering the:

(i) Subscriber;

(ii) Subscriber and the subscriber's dependents;

(iii) Subscriber and the subscriber's family members; **[**or**]**

(iv) Subscriber's dependent or dependents; or

[(iv)**]** *(v)* Subscriber and the subscriber's dependents and family members; or

(b) (text unchanged)

[(4)**]** *(5)*—**[**(12)**]** *(13)* (text unchanged)

[(13)**]** *(14)* "Subscriber" means, for:

(a) Group dental benefit contracts, the person who is eligible to be covered under the contract, other than as a dependent, by reason of satisfying the eligibility requirements of the group;

(b) Individual dental benefit contracts, the individual who applies to the dental plan organization for coverage for*:*

(i) **[**that**]** *That* individual only **[**or**]***;*

(ii) **[**for the**]** *The* individual and the individual's dependents*; or*

(iii) The individual's dependent or dependents.

.04 Dental Benefit Contract.

Each dental benefit contract shall contain the following provisions:

A.—H. (text unchanged)

I. *For closed panel dental benefit contracts:*

(1) A provision indicating that if a plan dentist refers the enrollee to a specialist who is not a plan dentist for dental services which are covered under the dental benefit contract, the dental plan organization shall be responsible for payment of the specialist's charges to the extent the charges exceed the copayment specified in the dental benefit contract; *and*

[J.**]** *(2)* A provision which reads substantially as follows: "If during the term of this contract none of the plan dentists can render necessary care and treatment to the enrollee due to circumstances not reasonably within the control of the dental plan organization, such as complete or partial destruction of facilities, war, riot, civil insurrection, labor disputes, or the disability of a significant number of the plan dentists, then the enrollee may seek treatment from an independent licensed dentist of the enrollee's own choosing. The dental plan organization will pay the enrollee for the expenses incurred for the dental services with the following limitations: The dental plan organization will pay the enrollee for services which are listed in the patient charge schedule as No Charge, to the extent that such fees are reasonable and customary for dentists in the same geographic area; the dental plan organization will also pay the enrollee for those services listed in the contract for which there is a copayment, to the extent that the reasonable and customary fees for such services exceed the copayment for such services as set forth in the contract. The enrollee may be required to give written proof of loss. The dental plan organization agrees to be subject to the jurisdiction of the Maryland Insurance Commissioner in any determination of the impossibility of providing services by plan dentists.";

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

31.12.05 Dental Benefit Plan Coverage — Mandatory Point-of-Service Option

Authority: Insurance Article, §§2-109 and 15-114, Annotated Code of Maryland

.02 Required Notice.

A. (text unchanged)

B. The notice shall read as follows:

Under Maryland law, *if you choose a point-of-service option for your group members*, your group member may **[**purchase**]** *select* a dental point-of-service option as an additional benefit. A dental point-of-service option allows your group members to obtain dental care services from dentists and other providers outside the dental provider panel under certain circumstances that are described in Attachment A.

You have the choice to either pay for this point-of-service option, pay a percentage of the cost of this option, or require your group members to pay for the entire cost of this option. The cost of the dental point-of-service option described in Attachment A is identified in your proposal. **[**Please indicate below the group members who have chosen this point-of-service option.**]**

I HAVE READ AND UNDERSTAND THIS DISCLOSURE STATEMENT AND **[**HAVE PROVIDED**]**, *IF I HAVE CHOSEN THE POINT-OF-SERVICE OPTION, I WILL PROVIDE* NOTICE OF THE AVAILABILITY OF THIS ADDITIONAL BENEFIT TO MY ELIGIBLE GROUP MEMBERS.

_____ _____

Date Group Policyholder

31.12.06 Managed Care Organizations — Financial Compliance Requirements

Authority: Health-General Article, §§**[**15-102,**]** *15-102.3*, 15-102.4(d), and 15-102.6; Insurance Article, §§2-109 and 4-311(b)(2); Annotated Code of Maryland

Ch. 331, §3, Acts of 2000

31.12.07 Required Standard Provisions

Authority: Health-General Article, §19-713(f); Insurance Article, §12-203(g); Annotated Code of Maryland

.04 Group Contract Standard Provisions.

A.—K. (text unchanged)

L. Misstatement of Age. If the premiums *or benefits* vary by age, each group contract shall contain a provision specifying an equitable adjustment of premiums *or benefits* to be made in the event the age of a member has been misstated.

[M.**]** (proposed for repeal)

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

.05 Individual Contract Standard Provisions.

A.—D. (text unchanged)

E. Reinstatement. Each individual contract shall contain in substance the following provision: "Reinstatement: If any renewal premium is not paid in full within the time granted the subscriber for payment, a later acceptance of premium in full by the HMO or by any agent authorized by the HMO to accept the premium, without requiring a reinstatement application in connection with the acceptance of the premium in full, shall reinstate the contract. However, if the HMO or the agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the contract will be reinstated upon approval of the application by the HMO or, lacking approval, upon the forty-fifth day following the date of the conditional receipt unless the HMO has previously notified the subscriber in writing of its disapproval of the reinstatement application. **[**The reinstated contract shall cover only loss resulting from accidental injury as may be sustained after the date of reinstatement and loss due to sickness as may begin more than ten days after the date of reinstatement. In all other respects the**]** *The* subscriber and HMO shall have the same rights under the reinstated contract as they had under the contract immediately before the due date of the defaulted premium, subject to any provisions endorsed on the contract or attached to the contract in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement."

F.—H. (text unchanged)

THERESE M. GOLDSMITH
Insurance Commissioner

Subtitle 13 CREDIT LIFE AND CREDIT HEALTH INSURANCE

Notice of Proposed Action

[15-048-P]

The Insurance Commissioner proposes to amend:

(1) Regulations **.04**, **.09**, **.13**, **.17**, and **.24** under **COMAR 31.13.01 Standards for Credit Life and Credit Health Insurance**; and

(2) Regulation **.19** under **COMAR 31.13.03 Standards for Credit Involuntary Unemployment Benefit Insurance**.

Statement of Purpose

The purpose of this action is to make changes to COMAR 31.13.01 and 31.13.03 consistent with the MIA's review of COMAR 31.13 under the Regulatory Review and Evaluation Act.

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 Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 Saint Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

31.13.01 Standards for Credit Life and Credit Health Insurance

Authority: Commercial Law Article, Title 12, Subtitle 3; Insurance Article, §§2-109, 13-110, 13-111, and 13-112; Annotated Code of Maryland

.04 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (12-1) (text unchanged)

(13) "Joint life insurance" means insurance issued to **[**a debtor and spouse**]** *two co-debtors with an insurable interest, as defined in Insurance Article, §12-201(b), Annotated Code of Maryland,* when both are jointly and severally liable for the debt.

(14) — (20) (text unchanged)

.09 General Premium Rate Standards and Increased Rates.

A. With respect to all premium rates not eligible for filing in accordance with the case method, the Commissioner will accept as meeting the standards of Insurance Article, §13-110(b)(1) and (2), Annotated Code of Maryland, those premium rate filings which do not exceed prima facie premium rates stated in Regulations .10 — **[**.12**]** *.11* and .14 — **[**.16**]** *.15* of this chapter for the several categories of insurance described in those regulations. The prima facie premium rates in those regulations are based on the assumption that a policy fee, policy issue fee, certificate fee, or other additional charge will not be made.

B.—E. (text unchanged)

.13 Underwriting Requirements for Credit Life Prima Facie Premium Rates.

A. The prima facie premium rates used in Regulations 10 — **[**.12**]** *.11* of this chapter assume that contracts providing credit life insurance do not require evidence of individual insurability from any eligible debtor electing to purchase coverage within 30 days of the date the debtor becomes eligible.

B. If an insurer requires evidence of insurability from debtors electing to purchase coverage within 30 days of the date they become eligible and the initial amount of credit life insurance or the insurable maximum revolving credit account limit of an insured debtor does not exceed $15,000, the insurer shall reduce the premium rates stated in Regulations .10 — **[**.12**]** *.11* of this chapter by 10 percent on all:

(1) — (2) (text unchanged)

C. Subject to the conditions and requirements of Regulations .08, .09, and .18 of this chapter, the maximum premium rates shall be the rates stated in Regulations .10 — **[**.12**]** *.11* of this chapter if the:

(1) — (2) (text unchanged)

D. (text unchanged)

E. Underwriting Limitations.

(1) (text unchanged)

(2) The policy contains no provision which excludes or restricts liability for death caused in a certain specific manner or occurring while the insured has a specified status, *except that the policy may exclude death resulting from suicide within 6 months after the effective date of coverage*.

(3) — (6) (text unchanged)

.17 Underwriting Requirements for Credit Health Prima Facie Premium Rates.

A. The prima facie premium rates in **[**Regulations**]** *Regulation* .15 **[**and .16**]** of this chapter assume that contracts providing credit health insurance do not require evidence of individual insurability from any

eligible debtor electing to purchase coverage within 30 days of the date the debtor becomes eligible.

B. If an insurer requires evidence of insurability from debtors electing to purchase coverage within 30 days of the date they become eligible and the total amount of insured periodic indemnity payable in event of disability of the debtor or the insurable maximum revolving credit account limit of an insured debtor does not exceed $15,000, the insurer shall reduce the premium rates stated in **[**Regulations**]** *Regulation* .15 **[**and .16**]** of this chapter by 10 percent on all:

(1) —(2) (text unchanged)

C. Subject to the conditions and requirements of Regulations .08, .09, and .18 of this chapter, the maximum premium rates shall be the rates stated in **[**Regulations**]** *Regulation* .15 **[**and .16**]** of this chapter if:

(1) — (2) (text unchanged)

D. — E. (text unchanged)

.24 Notice to Debtors.

A. — D. (text unchanged)

E. Notice That Benefit May Be Subject to Personal Income Tax.

(1) If a credit health insurance policy is issued under which the benefit may be taxable as personal income to the debtor, then there shall be a notice to this effect in the individual policy or in certificates of insurance issued under a group policy.

(2) The notice under §E(1) of this regulation shall be prominently printed or stamped close to the schedule of benefits in the policy and in the certificate form.

31.13.03 Standards for Credit Involuntary Unemployment Benefit Insurance

Authority: Insurance Article, §2-109 and Title 13, Annotated Code of Maryland

.19 Notice to Debtors.

A. — B. (text unchanged)

C. Notice That Benefit May Be Subject to Personal Income Tax.

(1) If a credit involuntary unemployment benefit insurance policy is issued under which the benefit may be taxable as personal income to the debtor, then there shall be a notice to this effect in the individual policy or in certificates of insurance issued under a group policy.

(2) The notice under §C(1) of this regulation shall be prominently printed or stamped close to the schedule of benefits in the policy and in the certificate form.

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

THERESE M. GOLDSMITH
Insurance Commissioner

Title 36
MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY
Subtitle 01 GENERAL PROVISIONS

36.01.02 Administrative Procedures

Authority: State Government Article, §9-110, Annotated Code of Maryland

Notice of Proposed Action

[15-046-P]

The Maryland Lottery and Gaming Control Agency proposes to amend Regulation **.01** under **COMAR 36.01.02 Administrative Procedures**. This action was considered at the Maryland State Lottery and Gaming Control Commission open meeting held on November 24, 2014, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update the Regulations of the Maryland Lottery and Gaming Control Agency to reflect the recodification of the Maryland Public Information Act (PIA) into new General Provisions Article, Annotated Code of Maryland, and to incorporate the Agency's current practice of notifying an applicant of the estimated fees in PIA request and the status of a PIA request if the applicant is unresponsive.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to James B. Butler, Director of Legislative and Policy Affairs, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call 410-230-8781, or email to jbutler@maryland.gov, or fax to 410-230-8727. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Public Information Act Requests.

A. — B. (text unchanged)

C. Definitions.

(1) In this regulation and in Regulation .02 of this chapter, the following terms have the meanings indicated.

(2) Terms Defined.

(a) "Act" means the Public Information Act, **[**State Government**]** *General Provisions* Article, **[**§§10-611—10-630**]** *§§4-101 — 4-601*, Annotated Code of Maryland.

(b) "Applicant" has the meaning stated in **[**§10-611**]** *§4-101* of the Act.

(c) "Custodian" has the meaning stated in **[**§10-611**]** §*4-101* of the Act.

(d) "Official custodian" **[**has the meaning stated in §10-611 of the Act**]** *means the Director*.

(e) "Prepare" includes reviewing documents to determine whether the information contained in them may be disclosed under the Act.

(f) "Public Record" has the meaning stated in **[**§10-611**]** *§4-101* of the Act.

[D. Director as Official Custodian. Unless otherwise provided by law, the Director is the official custodian of the Agency's records.**]**

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

[H.**]** *G.* **[**Written**]** Request to Addressee.

(1) — (2) (text unchanged)

[I.**]** *H.* Response to Written Request.

(1) — (2) (text unchanged)

(3) If a request is denied, the custodian shall provide the applicant, at the time of the denial or within 10 **[**working**]** *work* days, a written statement that gives:

(a) — (d) (text unchanged)

(4) If a requested public record is not in the custody or control of the person to whom application is made, that person shall, within

10 **[**working**]** *work* days after receipt of the request, notify the applicant:

(5) (text unchanged)

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

[L.**]** *K.* Records Destroyed or Lost. If a requested record has been destroyed or lost, the custodian to whom the application is made shall promptly:

(1) Notify the applicant of this fact within 10 **[**working**]** *work* days of the request; and

(2) (text unchanged)

[M.**]** *L.* Review of **[**the**]** Denial.

(1) — (2) (text unchanged)

(3) If the hearing results in a total or partial denial of the request, the applicant may file an appropriate action in the circuit court under §**[**10-623**]** *4-362* of the Act.

(4) If the applicant does not request a hearing, the applicant may file an action for judicial enforcement under §**[**10-623**]** *4-362* of the Act without exhausting that administrative remedy.

[N.**]** *M.* Disclosure Against Public Interest.

(1) (text unchanged)

(2) Circuit Court Review.

(a) Within 10 **[**working**]** *work* days after the denial, the Director shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.

(b) (text unchanged)

[O.**]** *N.* Fees.

(1) — (3) (text unchanged)

(4) Before searching for or copying a public record of the Agency, the custodian shall estimate the cost of reproduction *and notify the applicant of the cost,* and either:

(a) — (b) (text unchanged)

(5) Except as provided in **[**§O(6)**]** *§P(6)* of this regulation, the Agency may charge a reasonable fee:

(a) — (b) (text unchanged)

(6) — (8) (text unchanged)

(9) If the applicant fails to respond to the custodian within 30 days of the notification under §N(4) of this regulation, the custodian may deem the request withdrawn without further notification to the applicant.

(10) An applicant's request to reopen a request deemed withdrawn under §N(9) of this regulation shall be processed as a new request.

[P.**]** *O.* Time and Place of Inspection

(1) — (2) (text unchanged)

STEPHEN L. MARTINO
Director
Maryland Lottery and Gaming Control Agency

Subtitle 05 TABLE GAMES

36.05.04 Blackjack Rules

Authority: State Government Article, §§9-1A-02(b) and 9-1A-04(d), Annotated Code of Maryland

Notice of Proposed Action

[15-045-P]

The Maryland Lottery and Gaming Control Agency proposes to amend Regulations **.02**, **.06**, and **.13** under **COMAR 36.05.04 Blackjack Rules**. This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on November 24, 2014, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update the regulations of the Maryland Lottery and Gaming Control Agency to reflect the addition of the Lucky Lucky side wager to the Blackjack game.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to James B. Butler, Director of Legislative and Policy Affairs, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call 410-230-8781, or email to jbutler@maryland.gov, or fax to 410-230-8727. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.02 Blackjack Tables and Card Reader Devices.

A. (text unchanged)

B. The layout for a blackjack table shall be submitted to the Commission and approved under Regulation .16 of this chapter and contain at least:

(1) — (13) (text unchanged)

(14) If the facility operator offers the Lucky Lucky Wager authorized under Regulation .06 of this chapter, a separate area designated for the placement of the Lucky Lucky Wager;

[(14)**]** *(15)* — **[**(16)**]** *(17)* (text unchanged)

C. — J. (text unchanged)

.06 Wagers.

A. — F. (text unchanged)

G. If specified in its rules submission under COMAR 36.05.03.19, a facility operator may offer to a player who placed a Blackjack Wager the option of placing these additional wagers:

(1) — (9) (text unchanged)

(10) A Hit and Run Progressive Wager that the dealer will have blackjack or a hand containing five or more cards; **[**or**]**

(11) A House Money Wager that the initial two cards dealt to the player will form a two-card straight, a pair, a two-card straight flush or an ace-king suited**[.]***; or*

(12) A Lucky Lucky Wager that the player's hand combined with the dealer's up card will contain the ranks of 6-7-8, 7-7-7, or a three card total of 19, 20, 21.

H. (text unchanged)

.13 Payout Odds and Limitation.

A. — D. (text unchanged)

E. If a facility operator offers the Lucky Lucky Wager, the facility operator shall pay out winning Lucky Lucky Wagers at the amounts in the following paytables as selected by the facility operator in its Rules Submission:

(1) Paytable A:

(a) For Suited 777 the payout is 200 to 1;
(b) For Suited 678 the payout is 100 to 1;
(c) For Unsuited 777 the payout is 50 to 1;
(d) For Unsuited 678 the payout is 30 to 1;
(e) For Suited 21 the payout is 10 to 1;
(f) For Unsuited 21 the payout is 3 to 1;
(g) For Any 20 the payout is 2 to 1; or

(h) For Any 19 the payout is 2 to 1.

(2) Paytable B:

(a) For Suited 777 the payout is 200 to 1;

(b) For Suited 678 the payout is 100 to 1;

(c) For Unsuited 777 the payout is 50 to 1;

(d) For Unsuited 678 the payout is 30 to 1;

(e) For Suited 21 the payout is 15 to 1;

(f) For Unsuited 21 the payout is 3 to 1;

(g) For Any 20 the payout is 2 to 1; or

(h) For Any 19 the payout is 1 to 1.

(3) Paytable C:

(a) For Suited 777 the payout is 200 to 1;

(b) For Suited 678 the payout is 100 to 1;

(c) For Unsuited 777 the payout is 50 to 1;

(d) For Unsuited 678 the payout is 30 to 1;

(e) For Suited 21 the payout is 10 to 1;

(f) For Unsuited 21 the payout is 3 to 1;

(g) For Any 20 the payout is 2 to 1; or

(h) For Any 19 the payout is 1 to 1.

[E.**]** *F.* — **[**J.**]** *K.* (text unchanged)

STEPHEN L. MARTINO
Director
Maryland Lottery and Gaming Control Agency

Subtitle 05 TABLE GAMES

36.05.18 Let It Ride Poker Rules

Authority: State Government Article, §§9-1A-02(b) and 9-1A-04(d), Annotated Code of Maryland

Notice of Proposed Action

[15-044-P]

The Maryland Lottery and Gaming Control Agency proposes to adopt new Regulations **.01 — .13** under a new chapter, **COMAR 36.05.18 Let It Ride Poker Rules**. This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on November 24, 2014, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update the regulations of the Maryland Lottery and Gaming Control Agency to reflect the addition of the new Let It Ride Poker game.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to James B. Butler, Director of Legislative and Policy Affairs, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call 410-230-8781, or email to jbutler@maryland.gov, or fax to 410-230-8727. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) "Community card" means a card which is used by all players to form a five-card Poker hand.

(2) "Envy Bonus" means an additional fixed sum payout made to a player who places a Progressive Wager when another player at the Let It Ride Poker table is the holder of an Envy Bonus Qualifying Hand.

(3) "Envy Bonus Qualifying Hand" means a straight flush or higher relating to Let It Ride Poker rankings that is formed using the three cards dealt to a player and the two community cards.

(4) "Hand" means the five-card Poker hand formed for each player by combining the three cards dealt to the player and the two community cards.

(5) "Let It Ride" means that a player does not withdraw a wager as permitted under Regulation .11B and C of this chapter.

(6) "Progressive Payout Hand" means a player's three cards combined with the two community cards with a rank of a three-of-a-kind or better under Regulation .6E of this chapter, depending on the paytable selected by the facility operator.

.02 Let It Ride Poker Tables.

A. Let It Ride Poker shall be played on a table that has:

(1) Betting positions for no more than seven players on one side of the table; and

(2) A place for the dealer on the opposite side of the table.

B. A facility operator shall submit to the Commission for approval the layout for a Let It Ride Poker table that contains, at a minimum:

(1) The name or logo of the facility operator;

(2) Three separate betting areas designated for the placement of the Let It Ride Poker Wagers for each player;

(3) Separate areas designated for the placement of the cards of each player;

(4) A separate area designated for the placement of the community cards located directly in front of the table inventory container;

(5) If a facility operator offers the optional Five Card Bonus Wager authorized under Regulation .07 of this chapter, a separate area designed for the placement of the Five Card Bonus Wager for each player;

(6) If a facility operator offers the optional Three Card Bonus Wager authorized under Regulation .07 of this chapter, a separate area designated for the placement of the Three Card Bonus Wager for each player;

(7) If a facility operator offers the optional Six Card Bonus Wager authorized under Regulation .07 of this chapter, a separate area designated for the placement of the Six Card Bonus Wager for each player;

(8) If a facility operator offers the optional Progressive Payout Wager authorized under Regulation .07 of this chapter, a separate area designated for the placement of the Progressive Payout Wager for each player;

(9) Inscriptions that advise a player of the payout odds or amounts for all permissible wagers offered by the facility operator, except that if payout odds or amounts are not inscribed on the layout, a sign identifying the payout odds or amounts for all permissible wagers shall be posted at each Let It Ride Poker table; and

(10) Inscriptions that advise players of the payout limit per hand established by the facility operator under Regulation .12 of this chapter, except that if the payout limit is not inscribed on the layout, a sign identifying the payout limits shall be posted at each Let It Ride Poker table.

C. If a facility operator offers the Progressive Payout Wager under Regulation .07 of this chapter, the Let It Ride Poker table shall have a progressive table game system for the placement of Progressive Payout Wagers that includes a:

(1) Wagering device at each betting position that acknowledges or accepts the placement of the Progressive Payout Wager; and

(2) Device that controls or monitors the placement of Progressive Payout Wagers at the gaming table including a mechanism that prevents the recognition of any Progressive Payout Wager that a player attempts to place after the dealer has announced "no more bets".

D. A Let it Ride Poker table shall have a drop box and a tip box attached on the same side of the table as, but on opposite sides of the dealer as approved by the Commission under COMAR 36.05.03.16.

E. When a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer, the Commission may approve an alternative location for the tip box from the location required under §D of this regulation.

F. Each Let It Ride Poker table shall have a discard rack securely attached to the top of the dealer's side of the table.

.03 Cards; Number of Decks.

A. Except as provided in §B of this regulation, Let It Ride Poker shall be played with one deck of cards that has:

(1) Cards that are identical in appearance; and

(2) One cover card.

B. If an automated card shuffling device is utilized, Let It Ride Poker may be played with two decks of cards in accordance with the following requirements:

(1) The cards in each deck must be of the same design;

(2) The backs of the cards in one deck must be of a different color than the cards included in the other deck;

(3) One deck of cards shall be shuffled and stored in the automated card shuffling device while the other deck is being used to play the game;

(4) Both decks of cards shall be continuously alternated in and out of play, with each deck being used for every other round of play; and

(5) The cards from only one deck shall be placed in the discard rack at any given time.

C. The decks of cards used in Let It Ride Poker shall be changed at least every:

(1) 4 hours if the cards are dealt by hand; and

(2) 8 hours if the cards are dealt from a manual or automated dealing shoe.

.04 Opening a Table for Gaming.

A. After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects and a floorperson assigned to the table shall verify the inspection.

B. After the cards are inspected, the cards shall be spread out face up on the table, in horizontal fan shaped columns by deck according to suit and in sequence, for visual inspection by the first player to arrive at the table.

C. After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the dealer shall:

(1) Turn the cards face down on the table;

(2) Mix the cards thoroughly by washing them; and

(3) Stack the cards.

D. After the cards have been stacked, the dealer shall shuffle them in accordance with Regulation .05 of this chapter.

E. If an automated card shuffling device is utilized and two decks of cards are received at the table, each deck of cards shall be spread for inspection, mixed, stacked, and shuffled in accordance with §§A—D of this regulation.

F. If the decks of cards received at the table are preinspected and preshuffled, §§A—E of this regulation do not apply.

.05 Shuffling and Cutting the Cards.

A. Unless the cards were preshuffled, the dealer shall shuffle the cards so they are randomly intermixed, manually or with an automated card shuffling device:

(1) Immediately prior to commencement of play;

(2) After each round of play has been completed; or

(3) When directed by a floorperson or above.

B. Upon completion of the shuffle, the dealer or automated shuffling device shall place the deck of cards in a single stack.

C. A facility operator may use an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

D. After the cards have been shuffled and stacked, the dealer shall place the deck of cards in a single stack, and:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with Regulations .08, .09, or .10 of this chapter; or

(2) If the cards were shuffled manually or were preshuffled, cut the cards in accordance with the procedures in §F of this regulation.

E. The deck shall be removed from the table if an automated card shuffling device:

(1) Is being used, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present; and

(2) The device reveals that an incorrect number of cards are present.

F. If a cut of the cards is required, the dealer shall place the cover card in the stack at least ten cards in from the top of the stack.

(1) After the cover card has been inserted, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack.

(2) The stack of cards shall then be inserted into the dealing shoe for commencement of play.

G. After the cards have been cut and before the cards have been dealt, a floorperson or above may require the cards to be recut if the floorperson determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

H. If there is no gaming activity at a Let It Ride Poker table which is open for gaming, the dealer shall:

(1) Remove the cards from the dealing shoe and discard rack;

(2) Unless a player requests the cards be spread face up on the table, spread out the cards on the table face down; and

(3) After the first player arriving at the table is afforded an opportunity to visually inspect the cards, complete the procedures in this section and Regulation .04 of this chapter.

I. If a facility operator utilizes a dealing shoe, or other device that automatically reshuffles and counts the cards, that was submitted to, and approved by, the Commission prior to its use in a licensed facility, §§D—F of this regulation do not apply.

.06 Let It Ride Poker Rankings.

A. In order of highest to lowest rank, the rank of cards used in Let it Ride Poker is: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3, and 2, except that an ace:

(1) May be used to complete a straight flush or straight with a 2, 3, 4, and 5; and

(2) May not be combined with any other sequence of cards including a sequence of queen, king, ace, 2, and 3.

B. All suits are equal in rank.

C. In order of highest to lowest rank, the permissible Poker hands in the game of Let It Ride Poker are:

(1) A royal flush, which is a hand consisting of an ace, king, queen, jack, and 10 of the same suit;

(2) A straight flush, which is a hand, other than a royal flush, consisting of five cards of the same suit in consecutive ranking, with king, queen, jack, 10, and 9 being the highest ranking straight flush and ace, 2, 3, 4, and 5 being the lowest straight flush;

(3) A four-of-a-kind, which is a hand consisting of four cards of the same rank, with four aces being the highest ranking four-of-a-kind and four 2s being the lowest ranking four-of-a-kind;

(4) A full house, which is a hand consisting of three-of-a-kind and a pair, with three aces and two kings being the highest ranking full house and three 2s and two 3s being the lowest ranking full house;

(5) A flush, which is a hand consisting of five cards of the same suit, not in consecutive order, with ace, king, queen, jack and 9 being the highest ranking flush and 2, 3, 4, 5, and 7 being the lowest ranking flush;

(6) A straight, which is a hand consisting of five cards of consecutive rank, with an ace, king, queen, jack and 10 being the highest ranking straight and an ace, 2, 3, 4, and 5 being the lowest ranking straight;

(7) A three-of-a-kind, which is a hand consisting of three cards of the same rank, with three aces being the highest ranking three-of-a-kind and three 2s being the lowest ranking three-of-a-kind;

(8) Two pairs, which is a hand consisting of two pairs, with two aces and two kings being the highest ranking two pair and two 3s and two 2s being the lowest ranking two pair; and

(9) A pair, which is a hand containing two cards of the same rank, with two aces being the highest ranking pair and two 10s being the lowest ranking pair.

D. If a facility operator offers the optional Three Card Bonus Wager under Regulation .07 of this chapter, the hands eligible for a payout are:

(1) A straight flush, which is a hand consisting of three cards of the same suit in consecutive ranking;

(2) A three-of-a-kind, which is a hand consisting of three cards of the same rank;

(3) A straight, which is a hand consisting of three cards of consecutive rank, including an ace, 2, and 3;

(4) A flush, which is a hand consisting of three cards of the same suit, not in consecutive order; and

(5) A pair, which is a hand consisting of two cards of the same rank.

E. If a facility operator offers the optional Six Card Bonus Wager under Regulation .07 of this chapter, the five-card Poker hands eligible for a payout are:

(1) A royal flush, which is a hand consisting of an ace, king, queen, jack, and 10 of the same suit;

(2) A straight flush, which is a hand consisting of five cards of the same suit in consecutive ranking;

(3) A four-of-a-kind, which is a hand consisting of four cards of the same rank, regardless of suit;

(4) A full house, which is a hand consisting of three-of-a-kind and a pair;

(5) A flush, which is a hand consisting of five cards of the same suit;

(6) A straight, which is a hand consisting of five cards of consecutive rank, regardless of suit;

(7) A three-of-a-kind, which is a hand consisting of three cards of the same rank, regardless of suit; and

(8) A Super Royal, if the facility operator selects Paytable A or B in Regulation .12 of this chapter, which is a six-card Poker hand consisting of an ace, king, queen, jack, 10, and 9 of the same suit.

F. If a facility operator offers the Progressive Payout Wager under Regulation .07 of this chapter, the following hands eligible for a payout are:

(1) A royal flush, which is a hand consisting of an ace, king, queen, jack, and 10 of the same suit;

(2) A straight flush, which is a hand, other than a royal flush, consisting of five cards of the same suit in consecutive ranking, with king, queen, jack, 10, and 9 being the highest ranking straight flush and ace, 2, 3, 4, and 5 being the lowest straight flush;

(3) A four-of-a-kind, which is a hand consisting of four cards of the same rank, with four aces being the highest ranking four-of-a-kind and four 2s being the lowest ranking four-of-a-kind;

(4) A full house, which is a hand consisting of three-of-a-kind and a pair, with three aces and two kings being the highest ranking full house and three 2s and two 3s being the lowest ranking full house;

(5) A flush, which is a hand consisting of five cards of the same suit, not in consecutive order, with ace, king, queen, jack, and 9 being the highest ranking flush and 2, 3, 4, 5, and 7 being the lowest ranking flush;

(6) A straight, which is a hand consisting of five cards of consecutive rank, with an ace, king, queen, jack, and 10 being the highest ranking straight and an ace, 2, 3, 4, and 5 being the lowest ranking straight; and

(7) A three-of-a-kind, which is a hand consisting of three cards of the same rank, with three aces being the highest ranking three-of-a-kind and three 2s being the lowest ranking three-of-a-kind.

.07 Wagers.

A. A player shall make a wager at Let It Ride Poker by placing a value chip, plaque, or other Commission-approved table game wagering instrument on the appropriate areas of the table layout.

B. Only a player seated at a Let It Ride Poker table may wager at the game.

(1) After a player has placed a wager and received cards, the player shall remain seated until the completion of the round of play.

(2) If a player leaves the table during a round of play, any wagers made by the player may be considered abandoned and may be treated as a losing wager.

C. All wagers at Let It Ride Poker shall be placed prior to the dealer announcing "no more bets" in accordance with the dealing procedures in Regulations .08 — .10 of this chapter.

D. Except as provided in Regulation .11 of this chapter, a wager may not be made, increased or withdrawn after the dealer has announced "no more bets".

E. The following wagers may be placed in the game of Let it Ride Poker:

(1) A player shall place three equal, but separate, Let It Ride Poker Wagers designated as Bet Number 1, Bet Number 2, and Bet Number 3.

(2) Bet Number 1 and Bet Number 2 may subsequently be removed by the player in accordance with Regulation .11 of this chapter.

(3) If specified in its Rules Submission, a facility operator may offer to a player at a Let It Ride Poker table the option to make an additional Five Card Bonus Wager, which a player may make after placing the three wagers required under §E(1) of this regulation by placing a value chip onto the designated betting area for that player.

(4) If specified in its Rules Submission, a facility operator may offer to a player at a Let It Ride Poker table the option to make an additional Three Card Bonus Wager, which a player may make after placing the three wagers required under §E(1) of this regulation by placing a value chip on the designated betting area for that player.

(5) If specified in its Rules Submission, a facility operator may offer to each player at a Let it Ride Poker table the option to make an additional Six Card Bonus Wager, which a player may make after placing the three wagers required under §E(1), (3), and (4) of this regulation by placing a value chip on the designated betting area for that player.

(6) If specified in its Rules Submission, a facility operator may offer to a player the option to make an additional Progressive Payout Wager that the player will receive a Progressive Payout Hand.

(a) After placing the Let It Ride Poker Wagers, a player may make an additional Progressive Payout Wager by placing a value chip into the progressive wagering device designated for that player.

(b) Each player is responsible for verifying that the player's respective Progressive Payout Wager has been accepted.

(7) A Five Card Bonus Wager, Three Card Bonus Wager, Six Card Bonus Wager and Progressive Payout Wager do not have a bearing on any other wagers made by the player.

F. A facility operator shall specify in its Rules Submission under the number of adjacent boxes on which a player may place a wager in one round of play.

.08 Procedure for Dealing Cards from a Manual Dealing Shoe.

A. If a manual dealing shoe is used, it shall be located on the table in a location approved by the Commission.

B. After the procedures required under Regulation .05 of this chapter have been completed, the stacked deck of cards shall be placed in the dealing shoe by the dealer or by an automated card shuffling device.

C. Prior to dealing any cards, the dealer shall announce "no more bets".

(1) If the Five Card Bonus Wagers is being offered, the dealer shall:

(a) Collect the Five Card Bonus Wagers;

(b) Place a lammer in front of each player who placed a Five Card Bonus wager;

(c) On the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Five Card Bonus Wagers acknowledged by the lammer replacement; and

(d) Place the value chips into the table inventory container.

(2) If the Progressive Payout Wager is being offered, the dealer shall use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers.

(3) If any Progressive Payout Wagers has been made, the dealer shall:

(a) Collect the Progressive Payout wagers;

(b) On the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system; and

(c) Place the value chips into the table inventory container.

D. The dealer shall:

(1) Remove each card from the dealing shoe with the hand of the dealer that is closest to the dealing shoe and placed the card on the appropriate area of the layout with the opposite hand;

(2) Place the first three cards dealt in the marked Six Card Bonus card box;

(3) Starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, deal the cards as follows:

(a) Deal one card face down to each player who placed the three required Let It Ride Poker Wagers in accordance with Regulation .07 of this chapter;

(b) Deal one card face down to the area designated for the placement of the community cards;

(c) Deal a second card face down to each player who placed the three required Let It Ride Poker Wagers in accordance with Regulation .07 of this chapter;

(d) Deal a second card face down to the area designated for the placement of the community cards; and

(e) Deal a third card face down to each player who placed the three required Let It Ride Poker Wagers in accordance with Regulation .07 of this chapter;

(4) After dealing the Six Card Bonus community cards, three cards to each player and two cards to the area designated for the placement of the community cards, remove the stub from the manual dealing shoe and, except as provided in §D(5) of this regulation, place the stub in the discard rack without exposing the cards;

(5) If an automated card shuffling device described in Regulation .05 is not being used, count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck; and

(6) Determine the number of cards in the stub by counting the cards face down on the layout.

E. If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

F. If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt.

(1) If 52 cards remain in the deck, but the cards were misdealt so that there are more or less than three cards in the Six Card Bonus Community card box or the dealer has more or less than 2 cards or the area designated for the placement of the community cards or a player has more or less than 3 cards, all hands are void and the dealer shall return all wagers to the players.

(2) If the cards were not misdealt, all hands are void, and the dealer shall return all wagers to the players and remove the entire deck of cards from the table.

.09 Procedure for Dealing the Cards from the Hand.

A. If the cards are dealt from the dealer's hand, the following requirements shall be met:

(1) An automated shuffling device shall be used to shuffle the cards;

(2) After the procedures required under Regulation .05 of this chapter have been completed, the dealer shall place the stacked deck of cards in either hand, and:

(a) After the dealer has chosen the hand in which he will hold the cards, the dealer shall continue to use that hand whenever holding the cards during that round of play; and

(b) The cards held by the dealer shall be kept over the table inventory container and in front of the dealer at all times; and

(3) Before dealing any cards, the dealer shall announce "no more bets", and:

(a) If the Five Card Bonus Wager is being offered, the dealer shall:

(i) Collect the Five Card Bonus Wagers;

(ii) Place a lammer in front of each player who made a Five Card Bonus wager;

(iii) On the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Five Card Bonus Wagers acknowledged by the lammer replacement; and

(iv) Place the value chips into the table inventory container;

(b) If the Progressive Payout Wager is being offered, the dealer shall use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers; and

(c) If any Progressive Payout Wagers have been made, the dealer shall:

(i) Collect the Progressive Payout wagers;

(ii) On the layout in front of the table inventory container, verify that the number of value chips wagered equals the

number of Progressive Payout Wagers accepted by the progressive table game system; and

(iii) Place the value chips into the table inventory container.

B. The dealer will place the first three cards dealt in the marked Six Card Bonus card box.

C. Starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, the dealer shall deal:

(1) One card face down to each player who placed the three required Let It Ride Poker Wagers in accordance with Regulation .07 of this chapter;

(2) One card face down to the area designated for the placement of the community cards;

(3) A second card face down to each player who placed the three required Let It Ride Poker Wagers in accordance with Regulation .07 of this chapter;

(4) A second card face down to the area designated for the placement of the community cards; and

(5) A third card face down to each player who placed the three required Let It Ride Poker Wagers in accordance with Regulation .07 of this chapter.

D. After dealing the Six Card Bonus community cards, three cards to each player and the area designated for the placement of the community cards, the dealer shall remove the stub from the manual dealing shoe and, except as provided in §G of this regulation, place the stub in the discard rack without exposing the cards.

E. If an automated card shuffling device described in Regulation .05 of this chapter is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck.

F. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

G. If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

H. If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt.

(1) If 52 cards remain in the deck, but the cards were misdealt so that there are more or less than three cards in the Six Card Bonus Community card box or the dealer has more or less than 2 cards or the area designated for the placement of the community cards or a player has more or less than 3 cards, all hands are void and the dealer shall return all wagers to the players; and

(2) If the cards were not misdealt, all hands are void, and the dealer shall return all wagers to the players and remove the entire deck of cards from the table.

.10 Procedure for Dealing Cards from an Automated Dealing Shoe and Shuffler.

A. If the cards are dealt from an automated dealing shoe and shuffler, the following requirements shall be met:

(1) After the procedures required under Regulation .05 of this chapter have been completed, the cards shall be placed in the automated dealing shoe and shuffler, and:

(a) Prior to the dealing shoe dispensing any stacks, the dealer shall announce "no more bets";

(b) If any Five Card Bonus Wagers have been made:

(i) Collect the Five Card Bonus Wagers;

(ii) Place a lammer in front of each player who made a Five Card Bonus wager;

(iii) On the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Five Card Bonus Wagers acknowledged by the lammer replacement; and

(iv) Place the value chips into the table inventory container;

(c) If the Progressive Payout Wager is being offered, the dealer shall use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers; and

(d) If any Progressive Payout Wagers have been made, the dealer shall:

(i) Collect the Progressive Payout wagers;

(ii) On the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system; and

(iii) Place the value chips into the table inventory container.

B. The dealer shall:

(1) Deliver the first stack of three cards dispensed by the automated dealing shoe face down to the Six Card Bonus Community card box;

(2) Deliver the next stack of two cards dispensed by the automated dealing shoe face down to the community card area in front of the dealer;

(3) Deliver the next stack of three cards dispensed by the automated dealing shoe face down to the player farthest to the dealer's left who has placed the three required Let It Ride Poker wagers in accordance with Regulation .07 of this chapter; and

(4) Moving clockwise around the table as the remaining stacks are dispensed to the dealer by the automated dealing shoe, deliver a stack face down to each of the other players who has placed the three required Let It Ride Poker wagers in accordance with Regulation .07 of this chapter.

C. After each stack of three cards has been dispensed and delivered in accordance with §B of this regulation, the dealer shall remove the stub from the automated dealing shoe and, except as provided in §D of this regulation, place the cards in the discard rack without exposing the cards.

D. If an automated card shuffling device described in Regulation .05 of this chapter is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck.

E. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

F. If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

G. If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt.

(1) If 52 cards remain in the deck, but the cards were misdealt so that there are more or less than three cards in the 6 Card Bonus Community card box or the dealer has more or less than 2 cards or the area designated for the placement of the community cards and a player has more or less than 3 cards, all hands are void and the dealer shall return all wagers to the players; and

(2) If the cards were not misdealt, all hands are void, and the dealer shall return all wagers to the players and remove the entire deck of cards from the table.

H. Notwithstanding the requirements in §§C and D of this regulation, if a facility operator is utilizing an automated dealing shoe that automatically reshuffles the cards, the three card stack of community cards may be dispensed before the three cards are dispensed to each player and one card of the three card community card stack will be discarded, leaving two community cards.

.11 Procedures for Completing a Round of Play.

A. After the dealing procedures required under Regulations .08, .09, and .10 of this chapter have been completed, a player shall examine the player's cards subject to the following limitations:

(1) A player who wagers at Let It Ride Poker is responsible for the player's hand;

(2) No individual other than the dealer and the player to whom the cards were dealt may touch the cards of that player;

(3) A player shall keep the players' three cards in full view of the dealer at all times; and

(4) A player shall make a decision regarding bet number two before the player's cards shall be placed face down on the appropriate area of the layout and the player shall not touch the cards again.

B. After all players have examined their cards and placed the players cards face down on the layout, beginning with the player farthest to the dealer's left and moving clockwise around the table the dealer shall ask each player if the player wishes to withdraw Bet Number 1 or Let It Ride.

(1) The player shall:

(a) Choose to let Bet Number 1 ride and remain on the designated betting area of the layout until the end of the round of play by:

(i) Tucking the player's card under the player's Let it Ride wager; or

(ii) Waving their hand in a left-to-right motion; or

(b) Choose to withdraw Bet Number 1 and the dealer shall move the value chips on the betting area designated for Bet Number 1 toward the player who shall then immediately remove the value chips from the betting area.

(2) The dealer shall turn the community card located to the dealer's left side face up after each player has made a decision regarding Bet Number 1.

C. After the first community card is exposed, beginning with the player farthest to the dealer's left and moving clockwise around the table the dealer shall ask each player if the player wishes to withdraw Bet Number 2 or Let It Ride.

(1) The player shall:

(a) Choose to let Bet Number 2 ride and remain on the designated betting area of the layout until the end of the round of play by:

(i) Tucking their card under their Let it Ride wager; or

(ii) Waving their hand in a left-to-right motion; or

(b) Choose to withdraw Bet Number 2 by:

(i) Scratching the table with or without their cards and the dealer shall move the value chips on the betting area designated for Bet Number 2 toward the player;

(ii) Immediately removing the value chips from the betting area; and

(iii) Tucking their cards under their final Let it Ride wager spot.

(2) The dealer shall then turn the second community card face up on the table.

D. After the second community card is turned face up, beginning with the player farthest to the dealer's right and continuing around the table in a counterclockwise direction, the dealer shall:

(1) Turn the three cards of the player face up on the layout and use the two community cards to form the five-card Poker hand of that player;

(2) Examine the cards of the player and form the highest ranking five-card Poker hand for each player; and

(3) Settle all Let It Ride Poker Wagers of that player by collecting losing wagers and paying winning wagers in accordance with Regulation .12 of this chapter.

E. After settling the player's Let It Ride Poker Wagers, the dealer shall settle any Five Card Bonus Wagers, Three Card Bonus Wagers, Six Card Bonus Wagers or Progressive Payout Wagers as follows:

(1) If a player placed a Five Card Bonus Wager and the two community cards and the three cards dealt to the player form a five-card Poker hand of two pair or better, pay the winning Five Card Bonus Wager in accordance with Regulation .12 of this chapter;

(2) If a player placed a Three Card Bonus Wager and the three cards dealt to the player form a three-card Poker hand of a pair or better as defined in Regulation .06 of this chapter, pay the winning Three Card Bonus Wager in accordance with Regulation .12 of this chapter;

(3) If a player placed a Six Card Bonus Wager and has won, the dealer shall pay the winning Six Card Bonus Wager in accordance with Regulation .12 of this chapter;

(4) If a player placed a Progressive Payout Wager and the three cards dealt to the player and the two community cards form a three-of-a-kind or better, as defined in Regulation .06 of this chapter, pay the winning Progressive Payout Wager in accordance with the payout odds in Regulation .12 of this chapter; and

(5) Pay any Envy Bonus won in accordance with Regulation .12 of this chapter.

F. All cards shall remain face up on the layout until all wagers have been settled by the dealer.

G. After all wagers of the player have been settled, the dealer shall:

(1) Remove all remaining cards from the table; and

(2) Place the cards from the table in the discard rack in a manner that permits the reconstruction of each hand in the event of a question or dispute.

.12 Payout Odds.

A. A facility operator shall pay each winning Let It Ride Poker wager at the odds in one of the following paytables selected by the facility operator in its Rules Submission:

(1) Paytable A:

(a) For a Royal flush the payout is 1,000 to 1;

(b) For a Straight flush the payout is 200 to 1;

(c) For a Four-of-a-kind the payout is 50 to 1;

(d) For a Full House the payout is 11 to 1;

(e) For a Flush the payout shall is 8 to 1;

(f) For a Straight the payout is 5 to 1;

(g) For a Three-of-a-kind the payout is 3 to 1;

(h) For a Two pair the payout is 2 to 1; or

(i) For a Pair of tens, jack, queens, kings or aces the payout is 1 to 1;

(2) Paytable B:

(a) For a Royal flush the payout is 500 to 1;

(b) For a Straight flush the payout is 100 to 1;

(c) For a Four-of-a-kind the payout is 25 to 1;

(d) For a Full House the payout is 15 to 1;

(e) For a Flush the payout shall is 10 to 1;

(f) For a Straight the payout is 5 to 1;

(g) For a Three-of-a-kind the payout is 3 to 1;

(h) For a Two pair the payout is 2 to 1; or

(i) For a Pair of tens, jack, queens, kings or aces the payout is 1 to 1; or

(3) Paytable C:

(a) For a Royal flush the payout is 100 to 1;

(b) For a Straight flush the payout is 50 to 1;

(c) For a Four-of-a-kind the payout is 30 to 1;

(d) For a Full house the payout is 15 to 1;

(e) For a Flush the payout is 9 to 1;

(f) For a Straight the payout is 6 to 1;

(g) For a Three-of-a-kind the payout is 3 to 1;

(h) For a Two pair the payout is 2 to 1; or

(i) For a Pair of tens, jack, queens, kings or aces the payout is 1 to 1.

B. If a facility operator offers the Five Card Bonus Wager, the facility operator shall pay out winning Five Card Bonus Wagers at the amounts in one of the following paytables selected by the facility operator in its Rules Submission:

(1) Paytable A:

(a) For a Royal flush the payout is $20,000;

(b) For a Straight flush the payout is $2,000;

(c) For a Four-of-a-kind the payout is $150;

(d) For a Full house the payout is $75;

(e) For a Flush the payout is $50;

(f) For a Straight the payout is $25;

(g) For a Three-of-a-kind the payout is $4;

(h) For Two Pair the payout is $3; or

(i) For a pair of two tens, jacks, queens, kings or aces the payout is $2;

(2) Paytable B:

(a) For a Royal flush the payout is $20,000;

(b) For a Straight flush the payout is $2,000;

(c) For a Four-of-a-kind the payout is $200;

(d) For a Full house the payout is $75;

(e) For a Flush the payout is $50;

(f) For a Straight the payout is $25;

(g) For a Three-of-a-kind the payout is $5;

(h) For Two Pair the payout is $4; or

(i) For a pair of two tens, jacks, queens, kings or aces the payout is $1;

(3) Paytable C:

(a) For a Royal flush the payout is $20,000;

(b) For a Straight flush the payout is $2,000;

(c) For a Four-of-a-kind the payout is $100;

(d) For a Full House the payout is $75;

(e) For a Flush the payout is $50;

(f) For a Straight the payout is $25;

(g) For a Three-of-a-kind the payout is $9; or

(h) For Two Pair the payout is $6;

(4) Paytable D:

(a) For a Royal flush the payout is $10,000;

(b) For a Straight flush the payout is $2,000;

(c) For a Four-of-a-kind the payout is $200;

(d) For a Full house the payout is $75;

(e) For a Flush the payout is $50;

(f) For a Straight the payout is $25;

(g) For a Three-of-a-kind the payout is $5;

(h) For Two Pair the payout is $4; or

(i) For a pair of two tens, jacks, queens, kings or aces the payout is $1;

(5) Paytable E:

(a) For a Royal flush the payout is $10,000;

(b) For a Straight flush the payout is $2,000;

(c) For a Four-of-a-kind the payout is $200;

(d) For a Full house the payout is $100;

(e) For a Flush the payout is $50;

(f) For a Straight the payout is $25;

(g) For a Three-of-a-kind the payout is $10; or

(h) For Two Pair the payout is $6;

(6) Paytable F:

(a) For a Royal flush the payout is $10,000;

(b) For a Straight flush the payout is $2,000;

(c) For a Four-of-a-kind the payout is $100;

(d) For a Full house the payout is $75;

(e) For a Flush the payout is $50;

(f) For a Straight the payout is $25;

(g) For a Three-of-a-kind the payout is $9; or

(h) For Two Pair the payout is $6; or

(7) Paytable G:

(a) For a Royal flush the payout is $20,000;

(b) For a Straight flush the payout is $2,000;

(c) For a Four-of-a-kind the payout is $300;

(d) For a Full house the payout is $150;

(e) For a Flush the payout is $50;

(f) For a Straight the payout is $25; or

(g) For a Three-of-a-kind the payout is $5.

C. If a facility operator offers the Three Card Bonus Wager, the facility operator shall pay out winning Three Card Bonus Wagers at the amounts in one of the following paytables selected by the facility operator in its Rules Submission:

(1) Paytable A:

(a) For a Straight flush the payout is 40 to 1;

(b) For a Three-of-a-kind the payout is 30 to 1;

(c) For a Straight the payout is 6 to 1;

(d) For a Flush the payout is 4 to 1; or

(e) For a Pair the payout is 1 to 1;

(2) Paytable B:

(a) For a Straight flush the payout is 40 to 1;

(b) For a Three-of-a-kind the payout is 30 to 1;

(c) For a Straight the payout is 5 to 1;

(d) For a Flush the payout is 4 to 1; or

(e) For a Pair the payout is 1 to 1; or

(3) Paytable C:

(a) For a Straight flush the payout is 40 to 1;

(b) For a Three-of-a-kind the payout is 30 to 1;

(c) For a Straight the payout is 6 to 1;

(d) For a Flush the payout is 3 to 1; or

(e) For a Pair the payout is 1 to 1.

D. If a facility operator offers the Six Card Bonus Wager, the facility operator shall pay out winning Six Card Bonus Wagers at the amounts in the following paytable selected by the facility operator in its Rules Submission:

(1) Paytable A:

(a) For a Super Royal of diamonds the payout is $1,000,000;

(b) For a Super Royal of hearts, spades or clubs the payout is $100,000;

(c) For a 5-Card Royal flush the payout is 1,000 to 1;

(d) For a 5- Card Straight flush the payout is 200 to 1;

(e) For a Four-of-a-kind the payout is 50 to 1;

(f) For a Full house the payout is 20 to 1;

(g) For a Flush the payout is 15 to 1;

(h) For a Straight the payout is 10 to 1; or

(i) For a Three-of-a-kind the payout is 5 to 1; or

(2) Paytable B:

(a) For a Super Royal of diamonds the payout is $100,000;

(b) For a Super Royal of hearts, spades or clubs the payout is $100,000;

(c) For a 5-Card Royal flush the payout is 1,000 to 1;

(d) For a 5- Card Straight flush the payout is 200 to 1;

(e) For a Four-of-a-kind the payout is 50 to 1;

(f) For a Full house the payout is 20 to 1;

(g) For a Flush the payout is 15 to 1;

(h) For a Straight the payout is 10 to 1; or

(i) For a Three-of-a-kind the payout is 5 to 1.

E. If a facility operator offers a Progressive Payout Wager, a player placing a Progressive Payout Wager shall be paid at the odds in one of the following paytables selected by the facility operator in

its Rules Submission, based on the five-card hand comprised of the player's three cards and the two community cards:

(1) Paytable A:

(a) For a Royal Flush the payout is 100 percent of meter;

(b) For a Straight flush the payout is 10 percent of meter;

(c) For a Four-of-a-Kind the payout is 300 for 1;

(d) For a Full House the payout is 50 for 1;

(e) For a Flush the payout is 40 for 1;

(f) For a Straight the payout is 30 for 1; or

(g) For Three-of-a-kind the payout is 9 for 1;

(2) Paytable B, which is based on the player's three card hand only:

(a) For an Ace, King, Queen the payout is 100 percent of meter;

(b) For an Ace, King, Queen of hearts, diamonds, or clubs the payout is 500 for 1;

(c) For a Straight flush the payout is 70 for 1;

(d) For a Three-of-a-Kind the payout is 60 for 1; or

(e) For a Straight the payout is 6 for 1; or

(3) Paytable C, which is based on the player's three card hand only:

(a) For Ace, King, Queen of spades the payout is 100 percent of meter;

(b) For Ace, King, Queen of hearts, diamonds, or clubs the payout is 500 for 1;

(c) For a Straight flush the payout is 100 for 1; or

(d) For a Three-of-a-Kind the payout is 90 for 1.

F. A facility operator shall include in its Rules Submission:

(1) The rate of progression for the meter used for the progressive payout; and

(2) The initial and reset amount, which shall be at least $1,000.

G. Winning Progressive Payout Hands shall be paid the amount on the meter when it is a player's turn to be paid as allowable under Regulation .11 of this chapter.

H. Envy Bonus payouts are:

(1) Based upon the amount of the Progressive Payout Wager placed by the player receiving the Envy Bonus; and

(2) Made according to one of the payouts for Envy Bonus Qualifying Hands that was designated by the facility operator in its Rules Submission.

I. The payout for an Envy Bonus payout for $1 Progressive Payout Wager is:

(1) Paytable A:

(a) For a Royal Flush, $1,000; or

(b) For a Straight Flush, $300;

(2) Paytable B:

(a) For an Ace, King, Queen of Spades the payout is $100; or

(b) For an Ace, King, Queen of Diamonds, Hearts or Clubs the payout is $25; or

(3) Paytable C:

(a) For an Ace, King, Queen of Spades the payout is $100; or

(b) For an Ace, King, Queen of Diamonds, Hearts or Clubs the payout is $25.

J. The payout for an Envy Bonus for $5 Progressive Payout Wager is:

(1) Paytable A

(a) For a Royal Flush, $5,000; or

(b) For a Straight Flush, $1,500;

(2) Paytable B:

(a) For an Ace, King, Queen of Spades the payout is $500; or

(b) For an Ace, King, Queen of Diamonds, Hearts or Clubs the payout is $125; or

(3) Paytable C:

(a) For an Ace, King, Queen of Spades the payout is $500; or

(b) For an Ace, King, Queen of Diamonds, Hearts or Clubs the payout is $125.

.13 Irregularities.

A. A card that is found face up in the shoe or the deck while the cards are being dealt may not be used in that round of play and shall be placed in the discard rack.

B. If more than one card is found face up in the shoe or the deck during the dealing of the cards, all hands are void, and the dealer shall return all wagers to the players and reshuffle the cards.

C. A card drawn in error without its face being exposed shall be used as though it were the next card from the shoe or the deck.

D. If a player or the area designated for the placement of the community cards is dealt an incorrect number of cards, all hands are void, and the dealer shall return all wagers to the players and reshuffle the cards.

E. If a community card is exposed prior to the dealer revealing the community cards under Regulation .11 of this chapter, all hands are void, and the dealer shall return all wagers to the players and reshuffle the cards.

F. The cards shall be reshuffled if an automated card shuffling device is in use and jams, stops shuffling during a shuffle, or fails to complete a shuffle cycle.

G. If an automated dealing shoe is in use and jams, stops dealing cards or fails to deal cards during a round of play, the round of play is void, and the dealer shall return all wagers to the players and remove the cards from the device and reshuffle them with any cards already dealt.

H. If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, before another method of shuffling or dealing may be used at that table, the automated card shuffling device or automated dealing shoe shall be:

(1) Covered; or

(2) Marked with a sign indicating that the automated card shuffling device or automated dealing shoe is out of order.

STEPHEN L. MARTINO
Director
Maryland Lottery and Gaming Control Agency

Uniform Treatment Plan Form

(For Purposes of Treatment Authorization)

Today's Date _____

Carrier or Appropriate Recipient:

PATIENT INFORMATION

PATIENT'S FIRST NAME

PATIENT'S DATE OF BIRTH ___ / ___ / ___

MEMBERSHIP NUMBER

AUTHORIZATION NUMBER (If Applicable)

PRACTITIONER INFORMATION

PRACTITIONER ID# or TAX ID

PHONE NUMBER

PRACTITIONER/FACILITY NAME, ADDRESS, FAX AND PHONE

Date/Time Patient First Seen For
This Episode Of Treatment __/__/____@____:_____am/pm

Level of care being requested: Please specify benefit type:

☐ Mental Health ☐ Substance Use Disorder ☐ Outpatient ☐ Intensive Outpatient Program ☐ Partial Hospitalization Program ☐ Acute IP ☐ IP Rehab ☐ Acute IP Detox ☐ Residential ☐ ECT ☐ rTMS ☐ Applied Behavior Analysis (ABA) ☐ Psychological Testing ☐ BioFeedback ☐ Telehealth ☐ Other _____

Primary Dx Code: _____ **Secondary Dx Code(s):** _____

Current Treatment Modalities: (check all that apply)

Psychotherapy: ☐ Behavioral ☐ CBT ☐ DBT ☐ Exposure ☐ Supportive Therapy ☐ Problem Focused ☐ Interpersonal ☐ Psychodynamic ☐ EMDR ☐ Group ☐ Couples ☐ Family ☐ Other _____

☐ **Medical Evaluation and Management**

Type of Medications(if not applicable, no response is required):

☐ Antipsychotic ☐ Anxiolytic ☐ Antidepressant ☐ Stimulant ☐ Injectables ☐ Hypnotic ☐ Non-psychotropic Mood Stabilizer ☐Other _____

Current Symptoms and Functional Impairments: Rate the patient's current status on these symptoms/functional impairments, if applicable.

	Current Ideation	Current Plan	Prior Attempt	None
Suicidal	☐	☐	☐	☐
Homicidal	☐	☐	☐	☐

Symptoms/ Functional Impairments	None	Mild	Moderate	Severe
Self-Injurious Behavior	☐	☐	☐	☐
Substance Use Problems	☐	☐	☐	☐
Depression	☐	☐	☐	☐
Agitated/aggressive Behavior	☐	☐	☐	☐
Mood Instability	☐	☐	☐	☐
Psychosis	☐	☐	☐	☐
Anxiety	☐	☐	☐	☐
Cognitive Impairment	☐	☐	☐	☐
Eating Disorder Symptoms	☐	☐	☐	☐
Social/ Familial/School/WorkProblems	☐	☐	☐	☐
ADL Problems	☐	☐	☐	☐

If requesting additional outpatient care for a patient, why does the patient require further outpatient care: ☐ Maintenance treatment for a chronic condition ☐ Consolidate treatment gains ☐ Continued impairment in functioning ☐ Significant regression ☐ New symptoms and/or impairments ☐ Supportive treatment due to other treatment plan changes ☐ complex psychiatric and medical co-morbidity ☐ Complex Psychiatric and Substance abuse Co-morbidity

☐ other _____

Signature of Practitioner: _____ Date: _____/_____/_____

My signature attests that I have a current valid license in the state to provide the requested services.

Complete the following if the request is for ECT or rTMS: Provide clinical rationale including medical suitability and history of failed treatments:

_____

_____

Requested Revenue/HCPC/CPT Code(s) _____ Number of Units for each _____

Complete the following for Applied Behavior Analysis (ABA) Requests(if the carrier classifies ABA as a mental health benefit):

Supervising BCBA Name_____ Has Autism Spectrum Disorder been validated by MD/DO or Psychologist? Yes No

For initial requests, what are specific ABA treatment goals for the patient?

1. _____
2. _____
3. _____

Date of Evaluation by MD/DO: _____

For continuing requests, assessment of functioning (observed via FBA, ABLLS, VB-MAPP, etc.) related to ASD including progress over the last year:

_____

_____

_____

For continuing requests what are the treatment goals and targeted behaviors, indicating new or continued, with documentation of progress and child's response to treatment:

1._____
2._____
3._____

Requested Revenue/HCPC/CPT Code(s) _____ Number of Units for each _____

Complete the following if the request is for Psychological Testing:

Symptoms/Impairment related to need for testing:

- ☐ Acute change in functioning from the individual's previous level
- ☐ Peculiar behaviors and/or thought process
- ☐ Symptoms of psychosis
- ☐ Attention problems
- ☐ Development delay
- ☐ Learning difficulties
- ☐ Emotional problems
- ☐ Relationship issues
- ☐ Other:_____
- ☐ Personality problems
- ☐ School problems
- ☐ Family issues
- ☐ Cognitive impairment
- ☐ Mood Related Issues
- ☐ Neurological difficulties
- ☐ Physical/medical signs

Purpose of Psychological Testing:

- ☐ Differential diagnostic clarification
- ☐ Help formulate/reformulate effective treatment plan.
- ☐ Therapeutic response is significantly different from that expected based on the treatment plan.
- ☐ Evaluation of functional ability to participate in health care treatment.
- ☐ Other: (describe) _____

Substance use in last 30 days: ☐ Yes ☐ No Diagnostic Assessment Completed: ☐ Yes Date _____/_____/_____ ☐ No
Patient substance free for last ten days ☐ Yes ☐ No
Has the patient had known prior testing of this type within the past 12 months? ☐ Yes ☐ No
If so, why necessary now? ☐ Unexpected change in symptoms ☐ Evaluate response to treatment ☐ Assess functioning ☐ Other
Names and Number of Hours of each requested test_____

If appropriate, complete this section: Reason(s) why assessment will require more time relative to test standardization samples?

☐ Depressed mood	☐ Vegetative Symptom	☐ Processing speed	☐ Performance Anxiety	☐ Expressive/ Receptive Communication Difficulties
☐ Low frustration tolerance	☐ Suspected or Confirmed grapho-motor deficits	☐ Physical Symptoms or Conditions such as:_____ _____	☐ Other:_____ _____ _____	

Requested Revenue/HCPC/CPT Code(s) _____ Number of Units for each _____

Complete the following if the request is for Biofeedback:

Requested Revenue/HCPC/CPT Code(s) _____ Number of Units for each _____

Complete the following if the request is for Telehealth:

Requested Revenue/HCPC/CPT Code(s) _____ Number of Units for each _____

Complete for Higher Level of Care Requests (e.g. inpatient, residential, intensive outpatient and partial hospitalization):

Primary reason for request or admission: (check one) □ Self/Other Lethality Issues □ Violent, unpredictable/uncontrolled behavior
□ Safety issues □ Eating Disorder □ Detox/withdrawal symptoms □ Substance Use □Psychosis □ Mania □ Depression
□ Other _____

Why does this patient require this higher level of care at this time? (Please provide frequency, intensity , duration of impairing behaviors and symptoms): _____

Medication adjustments (medication name and dose) during level of care: _____

Barriers to Compliance or Adherence: _____

Prior Treatment in past 6 months:
□ Mental Health □ Substance Use Disorder □ Inpatient □ Residential □ Partial □ Intensive Outpatient □ Outpatient

Relevant Medical issues (if any): _____

Support System/Home Environment: _____

Treatment Plan (include objectives, goals and interventions): _____

If Concurrent Review—What progress has been made since the last review _____

Why does member continue to need level of care _____

Discharge Plan (including anticipated discharge date) _____

Complete the following if substance use is present for higher level of care requests:
Type of substance use disorder _____
Onset: □ Recent □ Past 12 Months □ More than 12 months ago
Frequency: □ Daily □ Few Times Per Week □ Few Times Per Month □ Binge Pattern
Last Used: □ Past Week □ Past Month □ Past 3 Months □ Past Year □ More than one year ago
Consequences of relapse: □ Medical □ Social □ Housing □ Work/School □ Legal □ Other _____
Urine Drug Screen: □ Yes □ No Vital Signs: _____
Current Withdrawal Score: (CIWA_____ COWS_____) or Symptoms (□ check if not applicable) _____

History of: □ Seizures □ DT's □ Blackouts □Other □ Not Applicable

Complete the following if the request is related to the treatment of an eating disorder for higher level of care requests:
Height: _____ Weight:_____ % of NBW_____
Highest weight_____ Lowest weight_____ Weight change over time (e.g. lbs lost in 1 month) _____
If purging, type and frequency _____ Potassium _____ Sodium _____ Vital signs _____
Abnormal EKG_____ Medical Evaluation □ Yes □ No

Please identify current symptoms, behaviors and diagnosis of any Eating Disorder issues: _____

Please include any current medical/physiological pathologic manifestations: _____


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Errata

COMAR 10.18.07

At 41:26 Md. R. 1586 (December 26, 2014), col. 1, line 14 from the top:

For: (3) Regulations **.01**, **.03**, **.04**, **.06**, **.10**, **.13**, and **.16** under

Read: (3) Regulations **.01**, **.03**, **.04**, **.06**, **.10**, and **.16** under

[15-02-38]

COMAR 26.04.04

At 42:1 Md. R. 19 (January 9, 2015), column 2, line 14 from the top:

For: **Effective Date: January 15, 2015.**

Read: **Effective Date: January 19, 2015.**

[15-02-42]

Special Documents

MARYLAND HEALTH CARE COMMISSION

SCHEDULES FOR CERTIFICATE OF NEED REVIEW

The Maryland Health Care Commission provides the following schedules to interested members of the public and potential developers of projects involving health services and facilities that are subject to Certificate of Need ("CON") review and approval. The general criteria for Certificate of Need review are set forth at COMAR 10.24.01.08G(3). An applicant must demonstrate that the proposed project is consistent with these review criteria. It will be noted that the first criterion is evaluation of the project according to all relevant State Health Plan standards, policies and criteria.

This Certificate of Need review schedule updates and extends the schedule published in 41:20 *Md. Register*, pages 1181-1185 (October 3, 2014), by repealing each previously published scheduled review for which the due date for receipt of Letters of Intent has not yet occurred. This review schedule is not a solicitation by the Commission for Certificate of Need applications, and does not indicate, in of itself, that additional capacity is needed in services subject to Certificate of Need review, or that Certificate of Need applications submitted for the services described will be approved by the Commission.

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

Letters of Intent and applications for scheduled reviews may only be received and reviewed according to these published schedules. All Letters of Intent and Certificate of Need applications, including all of the required number of copies of CON applications, must be received at the offices of the **Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215, no later than 4:30 p.m.** on the scheduled date of submission. Letters of intent for projects not covered by this review schedule may be filed at any time.

For further information about review schedules or procedures, call Kevin McDonald, Chief, Certificate of Need, at (410) 764-5982.

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

The Commission hereby publishes the following schedules for the submission of Certificate of Need applications by acute care general hospitals, for projects that involve: (1) capital expenditures by or on behalf of acute care hospitals that exceed the applicable capital expenditure threshold referenced at COMAR 10.24.01.02A(5); (2) proposed changes in bed capacity or operating room capacity at existing hospitals; (3) the relocation of an acute care hospital; and/or (4) a change in the type or scope of any health care service offered by an acute care hospital, as specified at COMAR 10.24.01.02A, except for neonatal intensive care (4). Note that the following schedules do not apply to a project to establish a new acute care hospital.

Schedule One:
All Acute Care Hospital Projects

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Allegany, Frederick, Garrett, Washington	November 7, 2014	November 19, 2014	January 9, 2015
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	December 5, 2014	December 17, 2014	February 6, 2015
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester	January 9, 2015	January 21, 2015	March 13, 2015
Calvert, Charles, Montgomery, Prince George's, St. Mary's	February 6, 2015	February 18, 2015	April 10, 2015

Schedule Two:
All Acute Care Hospital Projects

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Allegany, Frederick, Garrett, Washington	May 1 , 2015	May 13, 2015	July 6, 2015
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	June 5, 2015	June 17, 2015	August 7, 2015
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester	July 10, 2015	July 22, 2015	September 11, 2015
Calvert, Charles, Montgomery, Prince George's, St. Mary's	August 7, 2015	August 19, 2015	October 9, 2015

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

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

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

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

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

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	November 7, 2014	November 19, 2014	January 9, 2015
Montgomery County	December 5, 2014	December 17, 2014	February 6, 2015
Southern Maryland	January 9, 2015	January 21, 2015	March 13, 2015
Central Maryland	February 6, 2015	February 18, 2015	April 10, 2015
Eastern Shore	March 6, 2015	March 18, 2 015	May 8, 2015

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

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	May 1 , 2015	May 13, 2015	July 6, 2015
Montgomery County	June 5, 2015	June 17, 2015	August 7, 2015
Southern Maryland	July 10, 2015	July 22, 2015	September 11, 2015
Central Maryland	August 7, 2015	August 19, 2015	October 9, 2015
Eastern Shore	September 4, 2015	September 16, 2015	November 6, 2015

Freestanding Ambulatory Surgical Facilities

The Commission hereby establishes the following schedules for the submission of applications to establish freestanding ambulatory surgical facilities, add operating rooms at an existing freestanding ambulatory surgical facility, or make a capital expenditure by or on behalf of a freestanding ambulatory surgical facility that requires Certificate of Need review and approval. The definition of freestanding ambulatory surgical facility can be found at Health-General Article §19-114(b).

Schedule One
Freestanding Ambulatory Surgical Facilities

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Calvert, Charles, Montgomery, Prince George's, St. Mary's	November 7, 2014	November 19, 2014	January 9, 2015
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	December 5, 2014	December 17, 2014	February 6, 2015

Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot Wicomico, Worcester	January 9, 2015	January 21, 2015	March 13, 2015
Allegany, Frederick, Garrett, Washington	February 6, 2015	February 18, 2015	April 10, 2015

Schedule Two
Freestanding Ambulatory Surgical Facilities

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Calvert, Charles, Montgomery, Prince George's, St. Mary's	May 1 , 2015	May 13, 2015	July 6, 2015
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	June 5, 2015	June 17, 2015	August 7, 2015
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot Wicomico, Worcester	July 10, 2015	July 22, 2015	September 11, 2015
Allegany, Frederick, Garrett, Washington	August 7, 2015	August 19, 2015	October 9, 2015

Comprehensive Care Facility Projects

The Commission hereby publishes the following two schedules for Certificate of Need review of proposed projects affecting comprehensive care facilities ("CCFs"). Schedule One identifies the review cycles for proposals involving the addition of CCF beds in Maryland jurisdictions in which the most recent State Health Plan need projection (COMAR 10.24.08, effective October 3, 2014) identifies a net need for beds in the forecast year of 2016 and for which no letters of intent or applications have been filed.. Persons interested in submitting Certificate of Need applications involving the addition of beds in these jurisdictions should contact the Maryland Health Care Commission to ascertain the current level of net bed need, if any, identified for these jurisdictions prior to the filing of a Certificate of Need application. Schedule Two establishes submission dates for Certificate of Need applications related to all other CCF projects, that do not involve an increase in CCF bed capacity in a jurisdiction. These include projects that involve a proposed capital expenditure for new construction or renovation at an existing CCF, the relocation of an existing facility, or the proposed relocation of some or all of the CCF bed capacity from an existing facility to a new site within the same jurisdiction.

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

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

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

Jurisdiction	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Queen Anne's County	November 7, 2014	November 19, 2014	January 9, 2015
Harford County	December 5, 2014	December 17, 2014	February 6, 2015
Frederick County	January 9, 2015	January 21, 2015	March 13, 2015
Howard County	February 6, 2015	February 18, 2015	April 10, 2015

Schedule One:
Part B: Other Comprehensive Care Facility Projects

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Eastern Shore	November 7, 2014	November 19, 2014	January 9, 2015
Western Maryland	December 5, 2014	December 17, 2014	February 6, 2015

Montgomery County	January 9, 2015	January 21, 2015	March 13, 2015
Central Maryland	February 6, 2015	February 18, 2015	April 10, 2015
Southern Maryland	March 6, 2015	March 18, 2 015	May 8, 2015

Schedule Two:
Part B: Other Comprehensive Care Facility Projects

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Eastern Shore	May 1 , 2015	May 13, 2015	July 6, 2015
Western Maryland	June 5, 2015	June 17, 2015	August 7, 2015
Montgomery County	July 10, 2015	July 22, 2015	September 11, 2015
Central Maryland	August 7, 2015	August 19, 2015	October 9, 2015
Southern Maryland	September 4, 2015	September 16, 2015	November 6, 2015

General Hospice Projects

The Commission hereby publishes the following schedule for Certificate of Need review of proposed projects involving the establishment of a general hospice or the expansion of an existing general hospice into a jurisdiction that the existing general hospice has not been authorized to serve. This schedule will only have force and effect if need projections for general hospice services based on the methodology in COMAR 10.24.13.06 are published in the *Maryland Register* and those published need projections identify either of the following jurisdictions listed in the following table as jurisdictions that, in the target year, have net need for general hospice services greater than the volume threshold, in accordance with proposed COMAR 10.24.13.06H(2)(k).

Schedule One
General Hospice Projects

Jurisdiction	Letter of Intent Date	Pre-Application Conference Date	Application Submission Date
Prince George's	June 3, 2016	June 15, 2016	August 5, 2016
Baltimore City	October 7, 2016	October 19, 2016	December 9, 2016

[15-02-52]

PROJECTED ADULT CARDIAC SURGERY CASES BY HEALTH PLANNING REGION, CY2014—CY2019 (CORRECTED NOTICE)

In accordance with COMAR 10.24.17.08, the Maryland Health Care Commission (MHCC) publishes the following notice of projected cardiac surgery cases by health planning region. These utilization projections will apply in the review of Certificate of Need (CON) applications acted on by MHCC during the period during which these projections are in effect. These published projections remain in effect until MHCC publishes updated projections.

Projected Adult Cardiac Surgery Case Volume by Health Planning Region, CY 2014-19

Region	Year					
	2014	2015	2016	2017	2018	2019
Baltimore Upper Shore	2,885	2,798	2,703	2,613	2,528	2,445
Lower Shore	414	405	396	389	382	376
Washington Metropolitan	1,936	1,881	1,819	1,760	1,704	1,650
Western	156	150	144	138	133	129
Total for All Regions	5,391	5,234	5,062	4,900	4,747	4,600

Sources: MHCC staff analysis of Health Services Cost Review Commission discharge abstract data for CY2007-CY2012 and District of Columbia discharge abstract data. Cardiac surgery discharges included in calculations are those records that indicate patient age of 15 years or older and include one or more of the following ICD-9 procedure codes 35.00-35.09; 35.10-35.14; 35.20-35.28; 35.31-35.35; 35.39, 35.41, 35.42, 35.50, 35.51,35.53-35.55; 35.60-35.63; 35.70-35.73; 35.81-35.84; 35.91-35.95; 35.97-35.99; 36.03, 36.10-36.17; 36.19, 36.31, 36.91, 36.99, 37.10, 37.11, 37.32, 37.33, and 37.37. The Maryland population data used in calculations is from the Maryland Department of Planning (July 2014). The District of Columbia population data is from the U.S. Census Bureau for years 2000 and 2010-2013. For years 2014 and 2019, MHCC purchased data from Nielsen, a commercial vendor, and interpolated the intervening years, assuming the same rate of change from year-to-year.

Region Definitions

Baltimore Upper Shore: Anne Arundel, Baltimore, Caroline, Carroll, Cecil, Harford, Howard, Kent, Queen Anne's, and Talbot Counties, and Baltimore City.

Lower Shore: Dorchester, Somerset, Wicomico, and Worcester Counties.

Washington Metropolitan: Calvert, Charles, Frederick, Montgomery, Prince George's, and St. Mary's Counties, and the District of Columbia.

Western: Allegany, Garrett, and Washington Counties.

[15-02-50]

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

ATHLETIC COMMISSION

Subject: Public Meeting
Date and Time: January 28, 2015, 2 — 4 p.m.
Place: 500 N. Calvert St.. 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patrick Pannella (410) 230-6223
[15-02-25]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: March 9, 2015, 1 — 3 p.m.
Place: 300 E. Joppa Rd., 4th Fl., Baltimore, MD
Add'l. Info: Juvenile Council Meetings
Contact: Jessica Wheeler (410) 821-2824
[15-02-03]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: March 19, 2015, 1 — 3 p.m.
Place: Howard Co. Police Dept., Main Headquarters, 3410 Courthouse Dr., Ellicott City, MD
Add'l. Info: Children's Justice Act Committee Meetings
Contact: Jessica Wheeler (410) 821-2824
[15-02-02]

BOARD OF MASTER ELECTRICIANS

Subject: Public Meeting
Date and Time: February 24, 2015, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Gae Herzberger (410) 230-6163
[15-02-24]

BOARD FOR PROFESSIONAL ENGINEERS

Subject: Public Meeting
Date and Time: February 12, 2015, 9 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 230-6262
[15-02-44]

STATE BOARD OF STATIONARY ENGINEERS

Subject: Public Meeting
Date and Time: February 17, 2015, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Gae Herzberger (410) 230-6163
[15-02-23]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subject: Public Meeting
Date and Time: February 10, 2015, 10 a.m. — 1 p.m.; Snow Date: February 17, 2015
Place: Anne Arundel Co. Dept. of Recreation & Parks, Kinder Center/Harvest Hall, 1001 Kinder Farm Park Rd., Millersville, MD
Contact: Linda Rudie (410) 767-8419
[15-02-45]

BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS (HVACR)

Subject: Public Meeting
Date and Time: February 11, 2015, 10:30 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Robin Bailey (410) 203-6160
[15-02-21]

FACILITIES ADVISORY BOARD — JUVENILE SERVICES

Subject: Public Meeting
Date and Time: February 14, 2015, 10 a.m. — 12 p.m.
Place: Baltimore City Juvenile Justice Center, 300 N. Gay St., 2nd Fl. Large Conf. Rm., Baltimore, MD
Contact: Bridgett Tucker (410) 752-3500 x 130
[15-02-33]

STATE ADVISORY BOARD FOR JUVENILE SERVICES

Subject: Public Meeting
Date and Time: February 2, 2015, 1 — 3 p.m.
Place: 1 N. Charles St., Ste. 2400, Baltimore, MD
Add'l. Info: This is a meeting of the Girls Services Subcommittee of the State Advisory Board.
Contact: Tim Gilbert (410) 230-3488
[15-02-46]

LABORATORY ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: February 19, 2015, 8:30 — 10 a.m.
Place: Laboratories Administration, 201 W. Preston St., L-37, Baltimore, MD
Contact: Cindy Nguyen (410) 767-3544
[15-02-39]

BOARD FOR PROFESSIONAL LAND SURVEYORS

Subject: Public Meeting
Date and Time: February 4, 2015, 10 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 230-6262
[15-02-43]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: February 19, 2015, 1 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
[15-02-08]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review
Add'l. Info: The Maryland Health Care Commission (MHCC) hereby gives notice of docketing of the following application for Certificate of Need:

Ingleside at King Farm — Docket No. 14-15-2355 — Conversion of 20 existing CCRC beds to public beds through the purchase and relocation of 20 public beds

from National Lutheran/Village at Rockville. Proposed Cost: $160,000 .

MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, COMAR 10.24.01, and the applicable State Health Plan standards.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Persons desiring to become interested parties in the Commission's review of the above-referenced application must meet the requirements of COMAR 10.24.01.01B(2) and (20) and must also submit written comments to the Commission no later than close of business February 23, 2015. These comments must state with particularity the State Health Plan standards or review criteria that you believe have not been met by the applicant as stated in COMAR 10.24.01.08F.

Please refer to the Matter/Docket Number listed above in any correspondence on the application. Copies of the application are available for review in the office of MHCC during regular business hours by appointment. All correspondence should be addressed to Paul E. Parker, Director, Center for Health Care Facilities Planning & Development, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276

[15-02-47]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review

Add'l. Info: The Maryland Health Care Commission (MHCC) hereby gives notice of docketing of the following application for Certificate of Need:

Hospice of Washington County — Docket No. 14-21-2356 — Construction of a 12-bed inpatient hospice on the unimproved lot at the intersection of Yale Drive and Medical Campus Road, Hagerstown. Proposed Cost: $6,951,000.

MHCC shall review the application under Health-General, §19-101 et seq., Annotated Code of Maryland, COMAR 10.24.01, and the applicable State Health Plan standards.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Persons desiring to become interested parties in the Commission's review of the above-referenced application must meet the requirements of COMAR 10.24.01.01B(2) and (20) and must also submit written comments to the Commission no later than close of business February 23, 2015. These comments must state with particularity the State Health Plan standards or review criteria that you believe have not been met by the applicant as stated in COMAR 10.24.01.08F.

Please refer to the Matter/Docket Number listed above in any correspondence on the application. Copies of the application are available for review in the office of MHCC during regular business hours by appointment. All correspondence should be addressed to Paul E. Parker, Director, Center for Health Care Facilities Planning & Development, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276

[15-02-48]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review

Add'l. Info: The Maryland Health Care Commission (MHCC) hereby gives notice of docketing of the following application for Certificate of Need:

Adventist HealthCare, Inc., d/b/a Washington Adventist Hospital — Matter No. 13-15-2349 — Relocation and construction of a new 170-bed general hospital to 12100 Plum Orchard Drive, Silver Spring, Montgomery County. Washington Adventist Hospital proposes that, if the relocation of its existing hospital is approved, its 40-bed acute psychiatric unit will be renovated in its current Takoma Park location and be operated as a licensed special hospital-psychiatric . This contingent project will be considered within this review cycle.

Estimated Cost: $330,829,524 for the relocation and replacement of the general hospital and $5,223,506 for the renovation of existing hospital space to a special hospital for behavioral health services. Total: $336,053,030.

MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, COMAR 10.24.01, and the applicable State Health Plan standards.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Persons desiring to become interested parties in the Commission's review of the above-referenced application must meet the requirements of COMAR 10.24.01.01B(2) and (20) and must also submit written comments to the Commission no later than close of business February 9, 2015. These comments must state with particularity the State Health Plan standards or review criteria that you believe have not been met by the applicant as stated in COMAR 10.24.01.08F.

Please refer to the Matter/Docket Number listed above in any correspondence on the application. Copies of the application are available for review in the office of MHCC during regular business hours by appointment. All correspondence should be addressed to Paul E. Parker, Director, Center for Health Care Facilities Planning & Development, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 762-4376

[15-02-49]

MARYLAND PUBLIC TELEVISION

Subject: Public Meeting

Date and Time: February 24, 2015, 8:30 a.m. — 10:30 a.m.

Place: 11767 Owings Mills Blvd., Owings Mills, MD

Contact: Laura Taylor (410) 581-4141

[15-02-26]

DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

Subject: Public Notice — 2015 Recreational Black Sea Bass Fishery

Add'l. Info: The Secretary of Maryland Department of Natural Resources, pursuant to COMAR 08.02.05.21F, announces that the recreational black sea bass fishery will be closed from 12:01 a.m. January 1, 2015 through 11:59 p.m. February 28, 2015. The Department will establish the season, catch limit, and minimum size for the recreational black sea bass fishery for the remainder of 2015 in a later notice.

Joseph P. Gill
Secretary
Maryland Department of Natural Resources

Contact: Jacob Holtz (410) 260-8262

[15-02-35]

DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

Subject: Public Notice — 2015 Summer Flounder Season, Size Limit and Creel Limit
Add'l. Info: The Secretary of Maryland Department of Natural Resources, pursuant to Code of Maryland Regulation 08.02.05.12F, announces the season, catch limit, and minimum size for the summer flounder fishery for 2015, effective 12:01 a.m. January 1, 2015.

- The season will be open January 1, 2015 through December 31, 2015.
- Recreational anglers may keep up to 4 summer flounder per person per day.
- The recreational minimum size for summer flounder is 16 inches in all Maryland State waters.
- The commercial hook and line minimum size for summer flounder is 16 inches in all Maryland state waters other than the study area described in COMAR 08.02.05.12G, where the minimum size is 14 inches during the study period.
- The commercial minimum size for summer flounder caught by gear other than hook and line is 14 inches.
- All other rules remain the same.

Joseph P. Gill
Secretary
Maryland Department of Natural Resources
Contact: Jacob Holtz (410) 260-8262
[15-02-36]

DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

Subject: Public Notice — Atlantic Coast Recreational Striped Bass Creel Limit Modification
Add'l. Info: The Secretary of Maryland Department of Natural Resources, pursuant to COMAR 08.02.15.12H, announces the modification of the recreational creel limit for striped bass in the State waters of the Atlantic Ocean, its coastal bays, and their tributaries. Effective 12:01 a.m. Monday, January 5, 2015, a person may not take or possess more than one striped bass per day from those waters. All other rules remain the same.

Joseph P. Gill
Secretary
Maryland Department of Natural Resources
Contact: Jacob Holtz (410) 260-8262
[15-02-37]

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Subject: Public Meeting
Date and Time: February 20, 2015, 8:30 a.m. — 2 p.m.
Place: Spring Grove Hospital Center, 55 Wade Ave., Catonsville, MD
Add'l. Info: Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46 amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 1-800-735-2255.
Contact: Marilyn Pinkney (410) 402-8556
[15-02-41]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: February 12, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-02-04]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: March 12, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-02-27]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: April 9, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-02-28]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: May 14, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-02-29]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: June 11, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-02-30]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: July 9, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-02-31]

BOARD OF EXAMINERS OF PSYCHOLOGISTS

Subject: Public Meeting
Date and Time: February 6, 2015, 9 a.m. — 12 p.m.
Place: 4201 Patterson Ave., Conf. Rm. 110, Baltimore, MD
Add'l. Info: Sign language intepreters/other appropriate accommodations for qualified individuals with disabilities will be provided upon request. Proposed changes to COMAR may be discussed.
Contact: Dorothy Kutcherman (410) 764-4703
[15-02-22]

RACING COMMISSION

Subject: Public Meeting
Date and Time: February 17, 2015, 12:30 — 1 p.m.
Place: Laurel Park, Laurel, MD
Contact: J. Michael Hopkins (410) 296-9682
[15-02-32]

COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS

Subject: Public Meeting
Date and Time: February 10, 2015, 10:30 a.m. — 12 p.m.
Place: 500 N. Calvert St., Baltimore, MD
Contact: Patti Schott (410) 230-6165
[15-02-01]

REAL ESTATE COMMISSION

Subject: Public Meeting
Date and Time: February 18, 2015, 10:30 a.m.
Place: Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Charlene Faison (410) 230-6199
[15-02-18]

REAL ESTATE COMMISSION

Subject: Public Hearing
Date and Time: February 18, 2015, 12:30 p.m.
Place: Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Charlene Faison (410) 230-6199
[15-02-20]

RETIREMENT AND PENSION SYSTEM — BOARD OF TRUSTEES

Subject: Public Meeting
Date and Time: February 17, 2015, 9:30 a.m.
Place: SunTrust Bldg., 120 E. Baltimore St., 16th Fl., Board Rm., Baltimore, MD
Add'l. Info: Meeting date and location are subject to change. Anyone interested in attending should contact the Retirement Agency for confirmation. Please note, the meeting may include a closed session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 410-625-5609 or 1-800-735-2258 TTY.
Contact: Angie Jenkins (410) 625-5609
[15-02-05]

PROTOCOL FOR SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATIONS AND PLANNING COMMITTEE

Subject: Public Meeting
Date and Time: February 12, 2015, 10 a.m. — 12 p.m.
Place: Columbia Gateway Bldg., 6751 Columbia Gateway Dr., Rm. 401, Columbia, MD
Contact: Joyce Dantzler (410) 767-1372
[15-02-10]

STATE BOARD OF INDIVIDUAL TAX PREPARERS

Subject: Public Meeting
Date and Time: February 23, 2015, 1 p.m. — 5 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Douglas Blackstone (410) 230-6244
[15-02-34]

BOARD OF WATERWORKS AND WASTE SYSTEMS OPERATORS

Subject: Public Meeting
Date and Time: March 19, 2015, 10 a.m. — 4 p.m.
Place: MES, 259 Najoles Rd., Millersville, MD
Add'l. Info: A portion of this meeting may be held in closed session
Contact: Pat Kratochvil (410) 537-3167
[15-02-06]

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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	_____	_____
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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

Part 4

23 Advance Directive Registry
24 Maryland Health Care Commission
25 Maryland Health Care Commission
26 Board of Acupuncture
27 Board of Nursing
28 Board of Examiners in Optometry
29 Board of Morticians and Funeral Directors
30 Commission on Kidney Disease
31 Health Occupation Boards
32 Board of Physicians
33 Board of Examiners of Nursing Home Administrators
34 Board of Pharmacy
35 Postmortem Examiners Commission
36 Board of Examiners of Psychologists

Part 5

37 Health Services Cost Review Commission
38 Board of Physical Therapy Examiners
39 Board of Nursing – Certified Nursing Assistants
40 Board of Podiatric Medical Examiners
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44 Board of Dental Examiners
45 Maryland Community Health Resources Commission
46 Board of Occupational Therapy Practice
47 Alcohol and Drug Abuse Administration
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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

Title 11

Department of Transportation – Volume & Subtitles

Volume 1

01 Office of the Secretary
02 Transportation Service Human Resources System
03 Maryland Aviation Administration
04 State Highway Administration
05 Maryland Port Administration
06 Mass Transit Administration
07 Maryland Transportation Authority
08 State Railroad Administration
09 Vacant
10 Vacant

Volume 2 and Volume 3

11 Motor Vehicle Administration – Administrative Procedures
12 MVA – Licensing of Businesses and Occupations
13 MVA – Vehicle Equipment
14 MVA – Vehicle Inspections
15 MVA – Vehicle Registration
16 MVA – Vehicle Operations
17 MVA – Driver Licensing and Identification Documents
18 MVA – Financial Responsibility Requirements
19 MVA – School Vehicles
20 MVA – Motorcycle Safety Program
21 MVA – Commercial Motor Vehicles
22 MVA – Preventive Maintenance Program
23 MVA – Drivers' Schools, Instructors & Driver Education Program

Title 26

Department of the Environment – Part & Subtitles

Part 1

01 General Provisions
02 Occupational, Industrial, and Residential Hazards
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
06 Waterworks and Waste Systems Operators
07 Board of Environmental Sanitarians

Part 2

08 Water Pollution
09 Maryland CO_2 Budget Trading Program
10 Oil Pollution and Tank Management
11 Air Quality
12 Radiation Management

Part 3

13 Disposal of Controlled Hazardous Substances
14 Hazardous Substance Response Plan
15 Disposal of Controlled Hazardous Substances — Radioactive Hazardous Substances
16 Lead
17 Water Management
18 Susquehanna River Basin Commission

Part 4

19 Oil and Gas Resources
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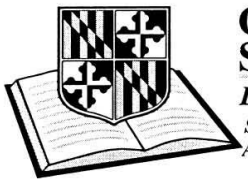

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