

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Independent Agencies**  
(DLS Control No. 14-034)

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**Overview and Legal and Fiscal Impact**

The regulations amend existing regulations concerning admissions, individual plans of care, behavior plans, and discharges of children in residential child care programs and reports or records concerning those children to conform to uniform licensing and monitoring practices.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Independent Agencies:**

Office for Children: Standards for Residential Child Care Programs:  
COMAR 14.31.06.17 and .18

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**Legal Analysis**

**Background**

The Secretaries of the Department of Health and Mental Hygiene (DHMH), the Department of Human Services (DHR), the Department of Juvenile Services (DJS), the State Superintendent of Schools, and the Executive Director of the Governor's Office for Children are jointly proposing these regulations. Regulations under COMAR 14.31.06 concern specified residential child care programs licensed by DHR, DHMH, and DJS. These programs include alternative living units, group homes, nonpublic residential educational facilities, DHMH/Community Mental Health Programs/Residential Crisis Services, State-operated residential educational facilities, and therapeutic group homes.

**Summary of Regulations**

COMAR 14.31.06.17 concerns the admissions, individual service plans, behavior plans, and discharges of children in residential child care programs. The regulations make stylistic and conforming changes and amend multiple references to a child's parent to also include a child's legal guardian.

The regulations amend Regulation .17A to require a licensee to have and follow written policies regarding admission, individual plans of care, behavior intervention plans, behavior support services, and discharge. Licensees must form teams comprised of specified individuals

to participate in (1) the admission process and (2) the development of the individual plan of care and discharge plan of a child. The amended regulation repeals the requirement that a team participate in the development of a behavioral plan.

The regulations further amend Regulation .17B, concerning admission processes for residential child care programs. The regulations amend Regulation .17B(3) to prohibit a licensee from admitting into care more children the number specified in its license, children outside of the age range specified in the license, or children not of the gender specified in the license. Formerly Regulation .17C(1), new Regulation .17B(9) requires a licensee, within three days after an admission, to include in a child's individual case record (1) a preliminary, individualized assessment of the child's needs, (2) a safe environment plan, and (3) specified documents not received before the child's placement.

The regulations amend Regulation .17C, concerning individual plans of care. Specifically, the regulations add the placing agency's permanency plan to the list of items which the individual plan of care must contain.

The regulations amend Regulation .17D, concerning behavior plans. The amended regulation requires a licensee to have a comprehensive written policy that identifies the process by which a behavior intervention plan is determined to be appropriate. The regulations repeal the requirement that the licensee develop a behavior plan in collaboration with a team that may include a human services professional, a Maryland licensed physician, or qualified Maryland licensed or certified professional counselor. The licensee must ensure that a behavior intervention plan is developed for each child for whom it is appropriate that includes specified information.

The regulations amend Regulation .17F, concerning discharge procedures. The regulations establish procedures for planned and unplanned discharges. Amended Regulation .17F(1) specifies the contents of certain statements and summaries which must be included in the discharge plan for a planned discharge. New Regulation .17F(2) establishes guidelines for unplanned discharges. The regulation requires a licensee to (1) provide at least 72 hours' notice to the placing agency except under specified circumstances; (2) at the time of discharge, provide the placement agency a discharge plan that includes specified information; and (3) within 30 calendar days after discharge, submit to the placing agency a discharge summary containing specified information.

Finally, the regulations add new Regulation .18B, concerning the confidentiality of records. The new regulation requires a licensee to (1) have and follow written procedures for the maintenance and security of individual case records and health records in accordance with State and federal law; (2) destroy records in accordance with timelines established in law in a manner that will preserve their confidentiality; and (3) ensure that if the program's parent corporation dissolves, its individual case records concerning children are given to the placing agency.

## **Legal Issue**

The regulations present no legal issue of concern.

## **Statutory Authority and Legislative Intent**

The Governor's Office for Children cites §§ 2-209, 2-212, 9-203, 9-204, 9-221, 9-231, 9-234, and 9-235 of the Human Services Article; § 20-302 of the Health Occupations Article; §§ 8-301 through 8-303 and 8-401 through 8-417 of the Education Article; §§ 5-506, 5-508, 5-509, and 5-510 of the Family Law Article; and §§ 2-104, 7-904, 8-404, 10-922, and 10-924 of the Health – General Article as authority for the regulations.

Section 2-209 of the Human Services Article provides the general regulatory authority for DHR. Section 9-203 provides the general regulatory authority for DJS. Section 9-221 requires specified State units, including the State Department of Education, DHMH, and DHR, to cooperate fully with DJS for specified purposes. Section 9-234 requires that regulations of State units that are charged with child care be comparable and authorizes DJS to adopt regulations to carry out §§ 9-235 and 9-236, concerning juvenile care facilities.

Sections 8-404 and 8-408 of the Education Article authorize the State Board of Education to adopt specified regulations concerning children with disabilities. Furthermore, § 8-417 requires DHR, DHMH, the Department of Budget and Management, and the Governor's Office for Children to participate with the State Department of Education to develop and implement rates in programs licensed or approved by those agencies to the extent required by federal and State law.

Section 5-506 of the Family Law Article authorizes DHR to adopt regulations to carry out §§ 5-507 through 5-509.1, concerning the licensing of child placement agencies, child care homes, child care institutions, and residential educational facilities.

Section 2-104 of the Health – General Article provides the regulatory authority for DHMH. Section 7-904 authorizes the Secretary of Health and Mental Hygiene to adopt rules and regulations for the licensing of services for an individual with a developmental disability or a recipient of individual support services. Sections 10-922 and 10-924 authorize the Secretary and the Director of Mental Hygiene, respectively, to adopt rules and regulations concerning private therapeutic group homes and individual treatment plans.

The cited authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The departments advise that the regulations have no economic impact on State or local governments. The Department of Legislative Services concurs.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The departments advise that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

### **Contact Information**

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