

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 14-129)**

Overview and Legal and Fiscal Impact

The regulations establish a tiered certification structure for residential child care program practitioners, authorize the Board for Certification of Residential Child Care Program Professionals to waive a certain training requirement, and establish a process for certification for applicants for whom the required education, experience, training, and examination are waived.

The regulations present no legal issue of concern.

The regulations have no additional fiscal impact beyond the impacts considered in the fiscal and policy notes for Chapters 312 and 313 of 2012, Chapter 583 of 2010, and Chapter 218 of 2008, which the regulations implement.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Board for Certification of Residential Child Care Program Professionals:
Certification – Residential Child and Youth Care Practitioners:
COMAR 10.57.03.01 and .13

Legal Analysis

Background

Chapters 312 and 313 of 2012 required the State Board for Certification of Residential Child Care Program Professionals (board) to establish a tiered certification structure for residential child and youth care practitioners and establish training and continuing education requirements for the residential child and youth care practitioners certified by the board. The Act also required the board to adopt regulations for approved training programs for residential child and youth care practitioners. According to the board, the regulations establishing the approved training programs will be proposed later this year.

Summary of Regulations

The regulations require an applicant for a certificate as a residential child and youth care practitioner to submit to the board evidence that the applicant has completed the process for certification under one of three tiers.

Tier 1 Certification: Tier 1 certification requires an individual to obtain an Associate's or Bachelor's degree and be continuously employed as a residential child and youth care practitioner for at least 2 years or a high school diploma or GED and be continuously employed as a residential child and youth care practitioner for at least 2 years. To obtain Tier 1 certification, an individual must meet the age requirement established in statute and submit to the board (1) the application, fee, and criminal background check as required in regulations; (2) evidence of completion of the appropriate academic experience as established in regulations; and (3) evidence of completion of a minimum of 10 hours of an on-site program orientation at a private provider site.

Tier 2 Certification: Tier 2 certification may be obtained by an individual who has obtained an Associate's or Bachelor's degree or completed the Community College of Baltimore County training program. In addition, the individual must meet the age requirement established in statute, and submit to the board the application, fee, and criminal background check as required in regulations and evidence of completion of a minimum of 10 hours of an on-site program orientation at a private provider site. Finally, the individual must pass a comprehensive examination.

Tier 3 Certification: Tier 3 certification may be obtained by an individual who does not hold a degree. To obtain Tier 3 certification, an individual must meet the age requirement established in statute, and submit to the board (1) the application, fee, and criminal background check as required in regulations; (2) evidence of completion of a minimum of 10 hours of an on-site program orientation at a private provider site; and (3) evidence of completion of an approved private provider residential child and youth care training program or of online training. The individual must also pass a comprehensive examination. For individuals who take online training, the board is required to approve the applicant, set up access for the applicant to begin the training, and be notified of the applicant's completion of the training.

The regulations require the board to notify applicants who have been approved to take a comprehensive examination of the all testing dates and locations. In addition, the board may waive the training program requirement for individuals with an Associate's or Bachelor's degree if the applicant passes an examination or meets other requirements established by the board. Finally, the regulations require an applicant for whom certain requirements are waived to submit to the Board the application, fee, and criminal background check as required in regulations, and, before October 1, 2015, satisfactory evidence that the applicant has worked in the State as a residential child and youth care practitioner for at least the last 2 years.

Legal Issue

These regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 20-205, 20-301, 20-302.1, 20-303, and 20-305 of the Health Occupations Article as authority for the regulations. Section 20-205 requires the board to establish training and continuing education requirements for the residential and youth care practitioners certified by the board. Section 20-301 requires, on or before October 1, 2015, an individual to receive a certificate from the board before the individual may be a residential child and youth care practitioner in the State. Section 20-302.1 establishes

the requirements for an individual to qualify for a certificate as a residential child and youth care practitioner, § 20-303 sets forth the information needed from an applicant for a certificate, and § 20-305 establishes the procedures to be followed for the examination of applicants.

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

Fiscal Analysis

The regulations have no additional fiscal impact beyond the impacts considered in the fiscal and policy notes for Chapters 312 and 313 of 2012, Chapter 583 of 2010, and Chapter 218 of 2008, which the regulations implement.

Agency Estimate of Projected Fiscal Impact

The regulations establish a tiered certification structure and require a \$50 application fee for residential child care program practitioners. The regulations also authorize the board to waive certain training and application fee requirements for certain applicants. The department advises that revenues for the board increase by approximately \$75,000 in fiscal 2015 and by at least \$75,000 in future years from application fees. However, the department advises that it cannot accurately determine how many applicants will qualify to have their fees waived. The determination to waive an applicant's fee is based on a showing of economic hardship; thus, the department advises that future revenues may be lower. The department also notes that it must hire at least one employee to process applications and handle regulation of these practitioners.

The Department of Legislative Services (DLS) disagrees with the department's estimate because the regulations merely implement Chapters 312 and 313 of 2012, Chapter 583 of 2010, and Chapter 218 of 2008. The regulations have no additional fiscal impact beyond those considered in the fiscal and policy notes for these bills. However, DLS concurs with the updated estimates provided by the department. Earlier estimates indicated significantly higher revenues and expenditures, but those estimates were based on the assumption that as many as 10,000 direct care practitioners would apply for certification as reported by the Governor's Office for Children. The department now anticipates that approximately 1,500 individuals may apply for certification as a residential child and youth care practitioner in the first year.

Impact on Budget

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

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no impact on small businesses. DLS concurs because the regulations merely implement Chapters 312 and 313 of 2012, Chapter 583 of 2010, and Chapter 218 of 2008. The regulations have no impact beyond the estimated potential meaningful impact for residential child and youth care practitioners assumed in the fiscal and policy notes for these bills.

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