

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Health and Mental Hygiene  
(DLS Control No. 14-131)**

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## **Overview and Legal and Fiscal Impact**

The regulations expand the licensure requirements that apply to a nursing staff agency to apply more broadly to any health care staff agency.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies beyond that already anticipated under the fiscal and policy note for Chapter 340 of 2013 (SB 1057).

## **Regulations of COMAR Affected**

### **Department of Health and Mental Hygiene:**

Hospitals: Health Care Staff Agencies: COMAR 10.07.03.01-.17

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## **Legal Analysis**

### **Background**

Currently, a nursing staff agency must be licensed by the Office of Health Care Quality (OHCQ) within the Department of Health and Mental Hygiene (DHMH) before it may refer nursing personnel to a health care facility in Maryland.

In July 2012, a hepatitis C-infected health care worker was arrested on suspicion of unlawful drug diversion activity that transmitted hepatitis C to 32 patients at Exeter Hospital in New Hampshire. The worker had been employed as a radiographer by multiple temporary agencies and worked in several states. In Maryland, the health care worker was licensed and temporarily employed from 2008 through 2010 at four hospitals. More than 1,700 patients at these hospitals were identified as potentially exposed.

As a result, an interdisciplinary team at DHMH began an investigation into the health care worker's employment and his interaction with public and private systems. DHMH recommended that the General Assembly consider legislation to extend State regulation of staffing agencies beyond nurse staffing agencies to include agencies staffing other allied health professions. Additionally, DHMH recommended that such legislation permit staffing agencies to be deemed to meet the requirements for licensure if certified by an accreditation organization accepted by DHMH. These recommendations were enacted by Chapter 340 of 2013.

## **Summary of Regulations**

The regulations implement Chapter 340 of 2013 by expanding the licensure requirements that apply to a nursing staff agency to apply more broadly to any health care staff agency. More specifically, the regulations require a health care staff agency to be licensed by OHCQ before referring a health care practitioner to a health care facility in the State. A health care staff agency is defined as any person, firm, corporation, partnership, or other business entity engaged in the business of referring health care practitioners as employees or independent contractors to render temporary health care services at a health care facility in the State. A health care practitioner is defined as any individual licensed or certified under the Health Occupations Article who practices in an allied health care field except as an acupuncturist, a dentist, a nurse anesthetist, a nurse midwife, a nurse practitioner, a pharmacist, a physician, or a podiatrist. Allied health care field is defined as a health care profession subject to licensure under the Health Occupations Article but does not include the health care profession of practicing as a physician assistant.

Additionally, the regulations provide for nursing staff agencies licensed in good standing as of the effective date of the regulations. A licensed nursing staff agency that refers only nursing personnel is deemed to meet the requirements for issuance of a health care staff agency license. However, a nursing staff agency that expands to referral of other health care practitioners in addition to nursing personnel is required to obtain a new health care staff license before making a referral.

## **Legal Issue**

The regulations present no legal issue of concern.

## **Statutory Authority and Legislative Intent**

DHMH cites Title 19, Subtitle 20 of the Health – General Article as authority for the regulations. Title 19, Subtitle 20 establishes the requirement that a health care staff agency be licensed by OHCQ before referring health care practitioners to a health care facility to render temporary health care services at a health care facility in this State and otherwise provides for the regulation of health care staff agencies by OHCQ.

This 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 beyond that already anticipated under the fiscal and policy note for Chapter 340 of 2013 (SB 1057).

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

The regulations implement Chapter 340 of 2013, which expanded regulatory requirements that apply to a nursing staff agency to apply more broadly to any health care staff agency and requires OHCQ to license such agencies. The department advises that the

regulations increase OHCQ general fund expenditures by \$152,000 in fiscal 2015 for additional surveyors and related expenses. The Department of Legislative Services disagrees and notes that such costs have already been anticipated under the fiscal and policy note for Chapter 340 of 2013.

### **Impact on Budget**

There is no impact on the State operating or capital budget beyond that already anticipated under the fiscal and policy note for Chapter 340 of 2013.

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

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs as this impact has already been accounted for under the fiscal and policy note for Chapter 340 of 2013, which indicated a potential meaningful impact.

### **Additional Comments**

The fiscal and policy note for Chapter 340 of 2013 estimated that OHCQ general fund expenditures would increase by \$118,000 in fiscal 2014 (and about \$152,200 in fiscal 2015) for additional personnel to license and inspect health care staff agencies; funding to hire the staff was included in the fiscal 2014 budget. The note also estimated that general fund expenditures would be offset, in part, by an increase in general fund revenues due to licensing fees collected.

### **Contact Information**

**Legal Analysis:** Lisa J. Simpson – (410) 946/(301) 970-5350

**Fiscal Analysis:** Jennifer B. Chasse – (410) 946/(301) 970-5510