

**Maryland General Assembly
Department of Legislative Services**

**Emergency/Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 14-221)**

Overview and Legal and Fiscal Impact

The emergency/proposed regulation extends the deadline under the current regulation from October 1, 2014 to no later than October 1, 2015 for clinical nurse specialists who are currently practicing and otherwise qualify, to take the national certifying exam. The Board of Nursing did not start certifying clinical nurse specialists until July 22, 2014. Accordingly, the board requests an extension of the deadline so that a clinical nurse specialist who is currently practicing without national certification will be able to qualify for State certification after taking and passing the national certifying examination.

The regulation presents no legal issues of concern.

There is no material fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Board of Nursing: Practice of Clinical Nurse Specialist: COMAR 10.27.27.02

Legal Analysis

Background

Chapters 486 and 487 of 2012 added to the law governing the practice of nurses a definition for “advanced practice nurse.” Although the practice of an “advanced practice nurse” was already regulated by the board, it was not a defined term in the law. Chapters 486 and 487 defined “advanced practice nurse” to mean “an individual who (1) is licensed by the board to practice registered nursing and (2) is certified by the board to practice as a clinical nurse specialist.” In addition, Chapters 486 and 487 clarified the application process for advanced practice certification. An individual who was certified by the board as a clinical nurse specialist and in good standing prior to October 1, 2012 was deemed to have met the education requirements for advanced practice that were clarified under Chapters 486 and 487. The laws also established title protection for a clinical nurse specialist.

Summary of Regulation

The emergency/proposed regulation extends the deadline under COMAR 10.27.27.02D from October 1, 2014 to no later than October 1, 2015 for a clinical nurse specialist who is currently practicing and otherwise qualifies, to take the national certifying exam. The board did

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not start certifying clinical nurse specialists until July 22, 2014. Accordingly, the board requests an extension of the deadline so that a clinical nurse specialist currently practicing without national certification will be able to qualify for State certification after taking and passing the national certifying examination.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 8-101(b), 8-205(a)(1) and (4), and 8-302 of the Health Occupations Article as legal authority for the regulation. Section 8-101(b) defines “advanced practice nurse.” Section 8-205(a)(1) authorizes the board to adopt regulations to carry out specified provisions of law. Section 8-205(a)(4) authorizes the board to adopt regulations for the performance of additional nursing acts that may be performed under any condition authorized by the board, including emergencies, and require education and clinical experience. Section 8-302 establishes (1) the qualifications of an applicant for certification as a clinical nurse specialist and (2) title protection for a clinical nurse specialist.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Reason for Emergency Status

The department requests emergency status to begin September 1, 2014, and to expire February 27, 2015, to cover the period until final adoption of the accompanying, permanent nonemergency regulations. This period is within normal timeframes approved by the committee.

The department requests the emergency action because the deadline of October 1, 2014 that was stipulated in COMAR 10.27.27.02D was based on the assumption that the board would start certifying individuals as clinical nurse specialists on October 1, 2012. In fact, the board did not start certifying clinical nurse specialists until July 22, 2014. The board believes that practicing clinical nurse specialists should be given an additional year after the board commenced issuing State certifications to allow them to take and pass the national certifying exam. National certification is a requirement for State certification.

Fiscal Analysis

There is no material fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulation extends the deadline for currently practicing and otherwise qualified clinical nurse specialists to obtain national certification from October 1, 2014, until October 1, 2015. The department advises that the change has no material State fiscal impact because the costs and revenues associated with certifying clinical nurse specialists have already been accounted for. Additionally, the department advises that there are no more than

200 clinical nurse specialists in the State and a significant number of these individuals have already applied for certification. Thus, extending the certification deadline has no material fiscal impact. The Department of Legislative Services concurs and notes that, although a portion of the application fee revenue may shift from fiscal 2015 to 2016, this amount is likely negligible.

Impact on Budget

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

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has no impact on small businesses. The Department of Legislative Services concurs.

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