

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 14-317)**

Overview and Legal and Fiscal Impact

The regulations establish standards for the assessment of a civil monetary penalty against an individual found guilty of unauthorized practice of podiatry. After a hearing, the regulations authorize the State Board of Podiatric Medical Examiners to impose a civil monetary penalty of no less than \$1,000 and no more than \$50,000 against an individual who practices podiatry without a license.

The regulations present no legal issue of concern.

The regulations have no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Board of Podiatric Medical Examiners: Civil Penalties: COMAR 10.40.07.02-.04

Legal Analysis

Summary of Regulations

The regulations establish standards for the assessment of a civil monetary penalty against an individual found guilty of unauthorized practice of podiatry. After a hearing, the regulations authorize the State Board of Podiatric Medical Examiners to impose a civil monetary penalty of no less than \$1,000 and no more than \$50,000 against an individual who practices podiatry without a license. The board may not impose a fine against a podiatrist for practicing podiatry on an expired license if the license is reinstated within 30 calendar days of the expiration date of the license and the licensee complies with COMAR 10.40.02, regarding licensing and continuing education requirements.

The board is required to consider specified factors in determining whether to impose a penalty and the amount of any penalty. The regulations add an additional factor. If the penalty being imposed is for unauthorized practice of podiatry, the board is required to consider the length of time in which the individual engaged in the unauthorized practice.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites § 16-505(b) of the Health Occupations Article as legal authority for the regulations. Section 16-505(b) authorizes the board to assess a civil fine of not more than \$50,000 against any person who violates § 16-501 of the Health Occupations Article, in accordance with regulations adopted by the board. Except under limited circumstances, § 16-501 of the Health Occupations Article prohibits a person from practicing, attempting to practice, or offering to practice podiatry in the State unless licensed by the board.

Technical Corrections and Special Notes

The department was contacted regarding several issues with the regulations and will make several changes to them before they are published in the *Maryland Register*. References to a “licensee” and a “podiatrist” were changed to an “individual” to clarify that the board has authority to impose a civil penalty against an individual who is not licensed by the board. The changes are reflected in the description of the regulations above.

Fiscal Analysis

The regulations have no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no fiscal 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 department advises 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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