

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	10/27/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 12/12/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

10 40 07 02-.04

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

Michele Phinney

Telephone Number

410-767-5623

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201 W. Preston Street

City State Zip Code

Baltimore MD 21201

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michele.phinney@maryland.gov

5. Name of Person to Call About this Document

Kristen Neville

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410-764-5978

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6. Check applicable items:

- New Regulations
 - Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: June 17, 2014.
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Richard Bloom, Assistant Attorney General, (telephone #410-767-6935) on September 29, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Joshua M. Sharfstein, M.D.

Title

Secretary

Telephone No.

410-767-6500

Date

October 27, 2014

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 40 BOARD OF PODIATRIC MEDICAL EXAMINERS

10.40.07 Civil Penalties

Authority: Health Occupations Article, §16–505(b), Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Health and Mental Hygiene proposes to amend Regulations .02—.04 under COMAR 10.40.07 Civil Penalties.

This action was considered at a public meeting on September 11, 2014 notice of which was given by publication on the Board’s website at <http://dhmh.maryland.gov/mbpme/SitePages/Home.aspx>, pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to implement standards for the assessment of a civil fine against licensees found guilty of unauthorized practice.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2015
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
These regulations propose to set standards for the assessment of the civil fine, not to increase the fine itself. A penalty will not be assessed unless a violation is found to have occurred.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
It is incumbent upon a licensee, not upon a small business, to pay a fine levied by the Board.
- G. Small Business Worksheet:

Attached Document:

Title 10
DEPARTMENT OF HEALTH AND MENTAL
HYGIENE
Subtitle 40 - BOARD OF PODIATRIC MEDICAL EXAMINERS
10.40.07 Civil Penalties

Authority: Health Occupations Article, §16-505(b), Annotated Code of Maryland

10.40.07.02 (6/17/2014)

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
- (1)—(2) (text unchanged)
- (3) "Violation" means an act or omission proscribed under Health Occupations Article, §16-311(a) and 16-501, Annotated Code of Maryland.

.03 Authority to Impose [Administrative] Civil Monetary Penalty.

A. After a hearing under Health Occupations Article, §16-313, Annotated Code of Maryland, and COMAR 10.40.05, the Board may impose [an administrative] *a civil* monetary penalty of *no less than \$1,000 and no more than \$50,000* [or less] under this chapter [on] *against* a licensee who commits a violation.

B. (text unchanged)

C. *The Board may impose a civil monetary penalty against a podiatrist who practices podiatry without a license in violation of Health Occupations Article, §16-501, Annotated Code of Maryland.*

D. *The Board may not impose a fine under §C of this regulation against a podiatrist for practicing podiatry on an expired license if the:*

(1) Podiatrist's license is reinstated within 30 calendar days of the expiration date of the license; and

(2) The licensee complies with COMAR 10.40.02.

.04 Factors to be Considered in the Assessment of Penalties.

The Board shall consider the following factors in determining whether to impose a penalty and the amount of any penalty:

A.—D. (text unchanged)

E. *The individual's history of any previous violation; and*

F. If the penalty being imposed is for unauthorized practice, the length of time in which the individual engaged in the unauthorized practice.

JOSHUA M. SHARFSTEIN, M.D.

Secretary of Health and Mental Hygiene