

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	02/12/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 3/20/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

10	41	03	05
10	41	08	11 and .12
10	41	11	08

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

Michele Phinney

Telephone Number

410-767-5623

Mailing Address

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

Telephone No.

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: July 28, 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 Anthony DeFranco, Assistant Attorney General, (telephone #410-767-6935) on February 4, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Van T. Mitchell

Title

Secretary

Telephone No.

410-767-6500

Date

February 12, 2015

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 41 BOARD OF EXAMINERS FOR AUDIOLOGISTS, HEARING AID
DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS

10.41.03 Licensure and Continuing Education

Subtitle 41 BOARD OF EXAMINERS FOR AUDIOLOGISTS, HEARING AID
DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS

10.41.08 Hearing Aid Dispensers

Subtitle 41 BOARD OF EXAMINERS FOR AUDIOLOGISTS, HEARING AID
DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS

10.41.11 Speech-Language Pathology Assistants

Authority: See attached.

Notice of Proposed Action

[]

The Secretary of Health and Mental Hygiene proposes to amend:

- 1) Regulation .05 under COMAR 10.41.03 Licensure and Continuing Education;
- 2) Regulation .11 and adopt new Regulation .12 under COMAR 10.41.08 Hearing Aid Dispensers; and
- 3) Regulation .08 under COMAR 10.41.11 Speech-Language Pathology Assistants.

This action was considered at a public meeting on June 19, 2014, notice of which was given by publication on the Board's website at <http://dhmh.maryland.gov/boardsahs/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 :

- 1) Authorize the Board to impose a penalty or take disciplinary action for failure to complete continuing education requirements for licensees of the Board; and
- 2) Authorize the Board to issue a cease and desist order and take certain disciplinary action against a licensee of the Board for practicing on an expired license.

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 April 20, 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 licensees to complete continuing education requirements on time and to renew a license on time, not upon a small business.

G. Small Business Worksheet:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 41 Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists

10.41.03 Licensure and Continuing Education

Authority: Health Occupations Article, §§2-205, 2-308, 2-212(b), 2-314(11), and 2-314.9, Annotated Code of Maryland

10.41.03.05 (7/28/2014)

.05 Renewal of Licensure.

A. (text unchanged)

B. Full Licensure.

(1)—(2) (text unchanged)

(3) *A licensee that fails to complete the continuing education requirements within the timeframe specified under COMAR 10.41.03.06 may be subject to:*

(a) *Informal or formal discipline for failure to meet the requirements; and*

(b) *A monetary fine not to exceed \$250.*

C. *Failure to Renew a License. A licensee who has failed to renew a license to practice in this State by June 30 of the year in which the license is due to be renewed is prohibited from practicing in this State.*

D. *If the Board determines that a licensee has practiced in this State after the license has expired, the Board may:*

(1) *Order the licensee to immediately cease and desist practice in this State until the license has been reinstated by the Board; and*

(2) *Take action as follows against a licensee for unprofessional conduct if it determines that the licensee practiced in this State after the license has expired:*

(a) *Issue a nonpublic consent agreement in which the licensee agrees to make an anonymous donation of \$250 to a charitable institution and to perform 40 hours of Board-approved pro-bono services;*

(b) *Provide the licensee with a settlement conference; or*

(c) *Charge the licensee with unprofessional conduct as provided in Health Occupations Article, §2-314(10), Annotated Code of Maryland, for practicing without a license.*

10.41.08 Hearing Aid Dispensers

Authority: Health Occupations Article, §§2-205, 2-308, 2-312(b), 2-314(10) and (11), and 2-314.9, Annotated Code of Maryland

10.41.08.11 (7/28/14)

.11 Continuing Education Requirements.

A. (text unchanged)

B. *A licensee that fails to complete the continuing education requirements within the timeframe specified under COMAR 10.41.03.06 may be subject to:*

(1) *Informal or formal discipline for failure to meet the requirements; and*

(2) *A monetary fine not to exceed \$250.*

[B.] C.—[D.] E. (text unchanged)

.12 Renewal of Licensure.

A. *A licensee who has failed to renew a license to practice in this State by March 3 of the year in which the license is due to be renewed is prohibited from practicing in this State.*

B. *If the Board determines that a licensee has practiced in this State after the license has expired, the Board may:*

(1) *Order the licensee to immediately cease and desist practice in this State until the license has been reinstated by the Board; and*

(2) *Take action as follows against a licensee for unprofessional conduct if it determines that the licensee practiced in this State after the license has expired:*

- (a) Issue a nonpublic consent agreement in which the licensee agrees to make an anonymous donation of \$250 to a charitable institution and to perform 40 hours of Board-approved pro-bono services;*
- (b) Provide the licensee with a settlement conference; or*
- (c) Charge the licensee with unprofessional conduct as provided in Health Occupations Article §2–314(10), Annotated Code of Maryland, for practicing without a license.*

10.41.11 Speech-Language Pathology Assistants

Authority: Health Occupations Article, §§2-205, 2-308, 2-312(b), 2-314(10), and 2-319, Annotated Code of Maryland

10.41.11.08 (7/28/2014)

.08 Term and Renewal of Speech-Language Pathology Assistant License.

A.—E. (text unchanged)

F. A licensee who has failed to renew a license to practice in this State by June 30 of the year in which the license is due to be renewed is prohibited from practicing in this State.

G. If the Board determines that a licensee has practiced in this State after the license has expired, the Board may:

(1) Order the licensee to immediately cease and desist practice in this State until the license has been reinstated by the Board; and

(2) Take action as follows against a licensee for unprofessional conduct if it determines that the licensee practiced in this State after the license has expired:

(a) Issue a nonpublic consent agreement in which the licensee agrees to make an anonymous donation of \$100 to a charitable institution and to perform 40 hours of Board-approved pro-bono services;

(b) Provide the licensee with a settlement conference; or

(c) Charge the licensee with unprofessional conduct as provided in Health Occupations Article, §2–314(10), Annotated Code of Maryland, for practicing without a license.

VAN T. MITCHELL

Secretary of Health and Mental Hygiene