

**Maryland General Assembly
Department of Legislative Services**

**Emergency/Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 15-038)**

Overview and Legal and Fiscal Impact

The emergency/proposed regulation adds a youth camp regulated in accordance with COMAR 10.16.06 to the settings where a delegating nurse case manager is not required to be present. Camp staff may assist campers in the self-administration of medicine.

The emergency/proposed regulation presents no legal issue of concern.

State and local government expenditures may decrease minimally as a result of youth camps operated by the State and local governments no longer being required to have a delegating nurse case manager present to administer medications.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Board of Nursing: Delegation of Nursing Functions: COMAR 10.27.11.01

Legal Analysis

Background

COMAR 10.16.06 governs the regulation of youth camps in the State. COMAR 10.16.06.23 requires a youth camp operator to ensure that a camp health supervisor is (1) available for consultation at all times when campers are present at camp; and (2) on site at all times when campers are present in a day or residential camp where 50 percent or more of the campers have identified medical problems. In addition, COMAR 10.16.06.23 requires a youth camp operator to ensure that (1) two adults with specified cardiopulmonary resuscitation certification are on duty in a camp at all times; (2) the cardiopulmonary resuscitation certification is appropriate to the age of campers and staff members; and (3) two adults with first aid certification by a national organization with a training program in first aid are on duty in a camp at all times.

Under COMAR 10.27.11.03, a nurse may delegate the responsibility to perform a nursing task to an unlicensed individual, a certified nursing assistant, or a medication technician. The delegating nurse retains the accountability for the nursing task. COMAR 10.27.11.01 provides that the regulations relating to the delegation of nursing tasks are not applicable to and do not restrict or limit (1) other health care practitioners who are authorized delegatory powers under their respective acts; (2) the gratuitous provision of care by self, family, or friends; (3) the provision of care by a child care provider under specified circumstances; (4) a cognitively

capable adult from employing an unlicensed caregiver in the adult's home to assist the adult in treatments of a routine nature and in self-administration of medication; (5) an individual who performs nursing assistant tasks while a nursing student enrolled in an accredited nursing education program and practicing under the direct supervision of: (a) qualified faculty or preceptors; or (b) a nurse while working as a nursing assistant; (6) an individual who performs nursing assistant tasks as a student while: (a) enrolled in a board-approved nursing assistant training program; (b) practicing under the direct supervision of qualified faculty or preceptors; or (c) practicing under the direct supervision of a nurse while working as a nursing assistant; or (7) a nurse from delegating a nursing task to an unlicensed individual, if acceptance of delegated nursing tasks does not become a routine part of the unlicensed individual's job duties.

Summary of Regulation

The emergency/proposed regulation adds a youth camp regulated in accordance with COMAR 10.16.06 to the settings where a delegating nurse case manager is not required to be present. Camp staff may assist campers in the self-administration of medicine.

Legal Issue

The emergency/proposed regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites § 8-205(a)(1) of the Health Occupations Article as authority for the regulation. Section 8-205(a)(1) authorizes the State Board of Nursing to adopt regulations to carry out the provisions of law governing the practice of nursing.

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 April 15, 2015, and to expire September 1, 2015, to cover the period until final adoption of the accompanying, permanent nonemergency regulation. The period is within normal timeframes approved by the committee.

The department is requesting emergency status on behalf of the owners and operators of youth camps. The department requests emergency status to allow the regulation to become effective before the start of camp season.

Fiscal Analysis

State and local government expenditures may decrease minimally as a result of youth camps operated by the State and local governments no longer being required to have a delegating nurse case manager present to administer medications.

Agency Estimate of Projected Fiscal Impact

The regulation adds a youth camp regulated in accordance with *Code of Maryland Regulations* 10.16.06 to the settings where a delegating nurse case manager is not required to be present. Accordingly, a youth camp may utilize an unlicensed individual to assist in the administration of medications. The department advises that the regulation has no fiscal impact. The Department of Legislative Services disagrees and notes that the regulation may have a minimal positive impact on State and local government finances to the extent youth camps are operated by State or local government entities.

Impact on Budget

The regulation does not have a material impact on the State operating or capital budget. However, higher education, general, and special fund expenditures for State entities that operate youth camps may decrease minimally beginning in fiscal 2015.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has a meaningful impact on youth day camps that operate in the State and are considered small businesses. The Department of Legislative Services concurs. Small businesses youth camps will no longer be required to incur the expense of having a delegating nurse case manager present and may instead employ or designate another unlicensed individual to assist in the administration of medications.

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