

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-071)**

Overview and Legal and Fiscal Impact

The regulations alter provisions relating to the licensure of occupational therapists and occupational therapy assistants, as well as competency requirements for the practice of occupational therapy.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Board of Occupational Therapy Practice: General Regulations:
COMAR 10.46.01.01, .02, and .04

Competency Requirements for Physical Agent Modalities: COMAR 10.46.06.04-.09

Legal Analysis

Summary of Regulations

The regulations alter provisions that govern the licensure of occupational therapists and occupational therapy assistants. Among other changes, the regulations clarify terms defined in the regulations, repeal a requirement that licenses be renewed annually, and update provisions to accommodate the use of computers and electronic means of communication in the licensure process. Updated provisions include:

- a requirement that the State Board of Occupational Practice send, at least 30 days before the expiration date of the license, a notice of renewal by electronic means or first-class mail to the last known electronic or physical address of each active licensee and each active licensee, and each licensee who is inactive by elective nonrenewal;
- a provision authorizing an individual to independently obtain information on the licensure status of licensees by accessing the board's website and viewing and printing a licensee's status (as well as by receiving verbal verification of a licensee's status upon phoning the board office); and

- a clarification that an applicant or licensee report a change of electronic mail address or postal address, in writing, within 30 days of the change.

In addition, the regulations specify that, at the time of licensure renewal, a licensee who has completed a certain continuing competency requirement must attest to the maintenance of Current Certification with the National Board of Certification in Occupational Therapy or completion of specified continuing competency activities. A licensee must also indicate, at the time of licensure renewal, a desire to carry over contact hours from one continuing competency time frame to another or utilize contact hours carried over from the previous renewal period.

The regulations also modify standards of competence for application of physical agent modalities and establish treatment plan guidelines. Before applying physical agent modalities to a client, a licensee must apply, after completing 15 contact hours of education, a minimum of five client treatments within the context of a therapeutic treatment program for each specific modality. An occupational therapist does not need to meet competency requirements to develop a treatment plan which includes recommendations for use of physical agent modalities. Therapeutic parameters for electrical modalities must be established by the occupational therapist or occupational therapy assistant administering the modality.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 10-101, 10-205, and 10-311 of the Health Occupations Article as authority for the regulations. Section 10-101 defines terms used in provisions of law that govern the practice of occupational therapy. Section 10-205 establishes powers and duties of the board, including the authority of the board to adopt regulations to carry out the provisions of law that govern the practice of occupational therapy.

Section 10-311 of the Health Occupations Article provides that a license expires on a date set by the board, unless the license is renewed for an additional term, and requires the board to send to the licensee, at least one month before the license expires, by electronic means or first-class mail to the last known electronic or physical address of the licensee, a renewal notice that states specified information. In addition, the section authorizes a licensee to renew periodically a license for an additional term if the licensee otherwise is entitled to be licensed, pays to the board a renewal fee set by the board, and submits to the board a renewal application and satisfactory evidence of compliance with any continuing competency requirements and other qualifications and requirements set under the section for license renewal. The section also authorizes the board to establish continuing competency requirements as a condition to the renewal of licenses under the section.

The authority cited by the department is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is 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 and notes that the State Board of Occupational Therapy Practice currently sends email notification of license renewals as authorized under statute; thus, this change reflects current practice and is intended to provide greater notice to licensees.

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. The Department of Legislative Services concurs in general and notes that the regulations likely reduce expenditures for licensees by authorizing added flexibility when obtaining continuing education units. To the extent that small businesses are responsible for paying for continuing education courses for their employees, expenditures may decrease.

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