

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	05/14/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 6/26/2015

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
10	46	01	01, .02 and .04
10	46	06	04-.09

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator	Telephone Number
Michele Phinney	410-767-5623

Mailing Address

201 W. Preston Street

City	State	Zip Code
Baltimore	MD	21201

Email
michele.phinney@maryland.gov

5. Name of Person to Call About this Document	Telephone No.
Kristen Neville	410-764-5978

Email Address

kristen.neville@maryland.gov

6. Check applicable items:

- New Regulations

- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: November 24, 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 April 17, 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

May 14, 2015

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 46 BOARD OF OCCUPATIONAL THERAPY PRACTICE

10.46.01 General Regulations

Subtitle 46 BOARD OF OCCUPATIONAL THERAPY PRACTICE

10.46.06 Competency Requirements for Physical Agent Modalities

Authority: See attached.

Notice of Proposed Action

[]

The Secretary of Health and Mental Hygiene proposes to :

- 1) Amend Regulations .01, .02 and .04 under COMAR 10.46.01 General Regulations; and
- 2) Amend Regulation .04, adopt new Regulation .05, recodify and amend Regulation .05 to be Regulation .06, and recodify Regulations .06—.08 to be Regulations .07—.09 under COMAR 10.46.06 Competency Requirements for Physical Agent Modalities.

This action was considered at public meetings on November 21, 2014 and March 20, 2015, notice of which was given by publication on the Board's website at <http://dhmh.maryland.gov/botp/SitePages/board-meetings.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) Update the regulations to reflect the more prevalent use of computers and electronic means of communication and to reflect the Board's paperless licensure system;
- 2) Require that a licensee applying for license renewal who has completed the continuing competency requirement shall attest to maintenance of Current Certification with the National Board of Certification in Occupational Therapy or to completion of continuing competency activities as specified in COMAR 10.46.04;
- 3) Provide that, when applying for initial licensure or reactivation or reinstatement of a license, an applicant may submit documentation certifying maintenance of current certification with the National Board of Certification in Occupational Therapy as part of the application;
- 4) Authorize the Board to send a license renewal notice by electronic means or by first-class mail to the last known electronic mail address or physical address of a licensee;
- 5) Authorize an individual to verify a license via the Board's website or by calling the Board office;

- 6) Clarify that before applying physical agent modalities to a client, a licensee shall, after completing all required 15 contact hours of education, apply a minimum of 5 client treatments within the context of a therapeutic treatment program for each specific modality;
- 7) Provide that an occupational therapist may have met the competency requirements as required in regulations to develop a treatment plan that includes recommendations for use of physical agent modalities;
- 8) Require that the therapeutic parameters for electrical modalities shall be established by the occupational therapist or occupational therapist assistant administering the modality; and
- 9) Repeal a requirement that licenses shall be renewed annually.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

These regulations will save licensees money by allowing the carry over of continuing education units (CEUs) from one cycle to another under certain circumstances. Thus, licensees would not have to complete and pay for as many CEU courses.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
<hr/>		
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
<hr/>		
D. On regulated industries or trade groups:	(+)	Indeterminate
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. These regulations will save licensees money by allowing the carry over of continuing education units (CEUs) from one cycle to another under certain circumstances. Thus, licensees would not have to complete and pay for as many CEU

courses. The Board cannot estimate the exact amount of money that will be saved by licensees.

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 July 27, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

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:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations do not impose any additional burdensome requirements on small businesses. It remains incumbent upon individual licensees to complete the requirements for licensure or renewal.

G. Small Business Worksheet:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 46 BOARD OF OCCUPATIONAL THERAPY PRACTICE

10.46.01 General Regulations

Authority: Health Occupations Article, §§10-101, 10-205, 10-311, Annotated Code of Maryland

(11/24/2014)

.01 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) (text unchanged)
 - (2) "AOTA" means the American Occupational Therapy Association, *formerly the American Occupational Therapy Certification Board (AOTCB)*.
 - (3) "Board" means the *State* Board of Occupational Therapy Practice.
 - (4) "Case resolution conference (CRC)" means a voluntary, informal, and confidential proceeding to explore the possibility of a consent order resolution of [the] *a disciplinary matter* [with the administrative prosecutor].
 - (5)—(10) (text unchanged)
 - (11) "Expired license" means an [invalid license] *individual's authority to practice occupational therapy or limited occupational therapy* which has not been renewed [for an additional term] through the process of renewal or elective nonrenewal *and is invalid*.
 - (12) "*Licensed*" means *formally authorized by the Board to practice occupational therapy or limited occupational therapy*.
 - [(12)] (13) "Licensee" means *an individual who is a licensed occupational therapist or a licensed occupational therapy assistant*.
 - [(13)] (14) "NBCOT" means the National Board for Certification in Occupational Therapy, *formerly the American Occupational Therapy Certification Board (AOTCB)*.
 - [(14)] (15) —[(28)] (29) (text unchanged)

.02 Licensure.

- A. (text unchanged)
- B. Term and Renewal of License.
 - (1) (text unchanged)
 - [(2)] All licenses expire annually on June 30, regardless of the original date of licensure.]
 - [(3)] The] (2) *At least 30 days before the expiration date of the license, the Board shall send a notice of renewal [to the last known address] by electronic means or first-class mail to the last known electronic or physical address of each active licensee, and each licensee who is inactive by elective nonrenewal, who is eligible for renewal [at least 30 days before the expiration date of the license].*
 - [(4)] (3) In order to renew a license, the licensee shall [return] *submit* to the Board a completed renewal application by the deadline for renewal.
 - [(5)] (4) The licensee shall submit [a] *an electronic payment, money order, or check[, or electronic payment]* in the amount of the renewal fee established by the Board in COMAR 10.46.05.01.
 - [(6)] (5)—[(7)] (6) (text unchanged)
 - [(8)] (7) A completed renewal application received with [a postmark or] *an on-line licensure confirmation or postmark* dated after the expiration date of June 30 will not be accepted.
 - [(9)] (8) At the time of licensure renewal, a licensee who has completed the continuing competency requirement shall attest to the [completion of the required contact hours as specified in COMAR 10.46.04]:
 - (a) *Maintenance of Current Certification with the National Board of Certification in Occupational Therapy (NBCOT); or*
 - (b) *Completion of continuing competency activities, as specified in COMAR 10.46.04.*
 - (9) *At the time of licensure renewal, a licensee shall indicate a desire to:*
 - (a) *Carry over contact hours from one continuing competency time frame to another; or*

(b) Utilize contact hours carried over from the previous renewal period.

(10) (text unchanged)

C. (text unchanged)

D. Application Procedures for Licensure. To apply for a license, an applicant shall submit the following [original] *primary source* documentation to the Board within the time frame specified on the application:

(1)—(3) (text unchanged)

(4) [A money order, check, or electronic] *An approved form of payment* in the amount of the application fee established by the Board in COMAR 10.46.05.01;

(5)—(6) (text unchanged)

(7) Documentation certifying [a minimum of 12 hours of education or]:

(a) *Maintenance of Current Certification with the National Board of Certification in Occupational Therapy (NBCOT)*; or

(b) *Completion of continuing competency activities*, as specified in COMAR 10.46.04[, obtained within the 1-year period immediately preceding the application for licensure].

E. Application Procedures for Temporary Licensure.

(1) (text unchanged)

(2) To apply for a temporary license, an applicant shall submit the following [original] *primary source* documentation to the Board within the time frame specified on the application:

(a) (text unchanged)

(b) An application confirmation [letter] from the NBCOT certifying the applicant's eligibility and registration to take the examination within the eligibility activation period;

(c) (text unchanged)

(d) [A money order, check, or electronic] *An approved form of payment* in the amount of the application fee established by the Board in COMAR 10.46.05.01;

(e) If currently, or previously, authorized to practice in any other state or country, or both, *primary source* documentation from the appropriate authority of that state or country verifying:

(i)—(iii) (text unchanged)

(f) (text unchanged)

(g) Documentation certifying [a minimum of 12 hours of education or] *completion of continuing competency activities*, as specified in COMAR 10.46.04[, obtained within the 1-year period immediately preceding the application for temporary licensure].

F. Application Procedures for a Second Temporary License.

(1) (text unchanged)

(2) To apply for a second temporary license, an applicant shall submit the following [original] *primary source* documentation to the Board within the time frame specified on the application:

(a) An application confirmation [letter] from the NBCOT certifying the applicant's eligibility and registration to take the examination within the eligibility activation period;

(b) [A money order, check, or electronic] *An approved form of payment* in the amount of the second temporary license fee established by the Board in COMAR 10.46.05.01; and

(c) (text unchanged)

G. Application Procedures for Nonrenewal of License.

(1) Elective Nonrenewal.

(a) (text unchanged)

(b) For each specific [1-year] *renewal* term for which inactive status is requested, the licensee shall apply for elective nonrenewal.

(c) The Board shall send a notice of renewal [to the last known address] *by electronic means or first-class mail to the last known electronic or physical address* of each inactive licensee who is eligible for renewal or elective nonrenewal.

(d) In order to electively nonrenew a license, the licensee shall [return] *submit* to the Board a completed application, by the expiration date of June 30.

(e) A completed application for elective nonrenewal received with [a] *an online application confirmation or postmark [or on-line licensure confirmation]* dated after the expiration date will not be accepted.

(f) (text unchanged)

(2) Expiration. A license that has not been renewed [for an additional] term through the process of renewal or elective nonrenewal is expired and invalid.

H. Application Procedures for Reactivation or Reinstatement of License. To apply for reactivation after elective nonrenewal or reinstatement after expiration, an applicant shall submit the following [original] *primary source* documentation to the Board within the timeframe specified on the application:

(1)—(3) (text unchanged)

(4) [A money order, check, or electronic] *An approved form of payment* in the amount of the applicable fee established by the Board in COMAR 10.46.05.01;

(5) If currently, or previously, authorized to practice in any other state or country, or both, *primary source* documentation from the appropriate authority of that state or country verifying:

(a)—(c) (text unchanged)

(6) (text unchanged)

(7) Documentation certifying [a minimum of 12 contact hours]:

(a) *Maintenance of current certification with the National Board of Certification in Occupational Therapy (NBCOT); or*

(b) *Completion of continuing competency activities as specified in COMAR 10.46.04 [obtained within the 1-year period immediately preceding the application for reinstatement or reactivation].*

I. Address Change.

(1) An applicant or licensee shall report a change of *electronic mail address or postal* address, in writing, within 30 days of the change.

(2) (text unchanged)

J. Name Change.

(1) (text unchanged)

(2) The report of a change in name shall include[:

(a) A copy of a legal document] *documentation* substantiating the name change[, such as a marriage certificate or court order, signed and certified as a true copy by the officer to whose custody the original is entrusted;

(b) The return of official license bearing the applicant's or licensee's former name; and

(c) The return of the pocket license bearing the applicant's or licensee's former name.

K. Duplicate License.

(1) If the original license is lost, stolen, or damaged, a licensee shall make a request in writing to the Board for a duplicate license.

(2) The request shall include:

(a) The damaged official license, if available;

(b) The damaged pocket license, if available; and

(c) A letter of explanation].

[L.] K. Verification of Maryland License.

(1) *Electronic Verification. An individual may independently obtain information on the licensure status of licensees in the following ways:*

(a) *Upon accessing the Board's website, an individual may view and print a licensee's status; or*

(b) *Upon phoning the Board office, an individual may receive verbal verification of a licensee's status.*

[(1)] (2) Board-Provided Verification.

(a) Upon request, the Board shall provide written documentation certifying licensure status and disciplinary history in Maryland.

[(2)] (b) The request for Board verification shall include:

[(a)] (i)—[(b)] (ii) (text unchanged)

[(c)] A money order, check, or electronic] (iii) *An approved form of payment in the amount of the verification of licensure fee established by the Board in COMAR 10.46.05.01.*

[(3)] Self-Obtained Verification. An individual may independently obtain information on the licensure status of licensees in the following ways:

(a) Upon accessing the Board's website, an individual may view and print a licensee's status; or

(b) Upon phoning the Board's office, an individual may receive verbal verification of a licensee's status.]

.04 Supervision Requirements.

A. (text unchanged)

B. Occupational Therapy Assistant.

(1) Subject to the requirements of this section, an occupational therapy assistant may practice limited occupational therapy under the supervision of an occupational therapist *provided* [if] it is at [a minimum] *least* periodic supervision.

(2)—(6) (text unchanged)

C.—F. (text unchanged)

10.46.06 Competency Requirements for Physical Agent Modalities

Authority: Health Occupations Article, §§ 10–101, Annotated Code of Maryland

.04 Standards of Competence for Electrical Modalities.

A.—B. (text unchanged)

C. Clinical Requirements. Before applying physical agent modalities to a client under this chapter, a licensee shall:

(1) (text unchanged)

(2) [Apply] *After completing all 15 contact hours of education, a licensee shall apply* a minimum of five client treatments *within the context of a therapeutic treatment program* for each specific modality under the direct clinical education of an educator as defined in this chapter.

.05 Treatment Plan Guidelines for Physical Agent Modalities.

A. The occupational therapist does not need to meet the competency requirements as set forth in this chapter in order to develop a treatment plan which includes recommendations for use of physical agent modalities.

B. The therapeutic parameters for electrical modalities shall be established by the occupational therapist or occupational therapy assistant administering the modality.

[.05] .06 Documentation of Education in Electrical Physical Agent Modalities.

A. (text unchanged)

B. Verification shall include:

(1) (text unchanged)

(2) Proof of 15 contact hours of didactic education by virtue of a certificate of completion or proof of education, *if applicable;*

(3)—(5) (text unchanged)

[.06] .07—[.08] .09 (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene