

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	05/27/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 7/10/2015**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

10 58 02 02

**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

**Email**

michele.phinney@maryland.gov

**5. Name of Person to Call About this Document**

Kristen Neville

**Telephone No.**

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: April 30, 2015.
- 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 Ari Elbaum, Assistant Attorney General, (telephone #410-767-1871) on May 13, 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 26, 2015

**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**  
**Subtitle 58 BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS**

**10.58.02 Fees**

Authority: Health Occupations Article, §§17–205, 17–206, and 17–310, Annotated  
Code of Maryland

**Notice of Proposed Action**

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The Secretary of Health and Mental Hygiene proposes to amend Regulation .02 under COMAR 10.58.02 Fees.

This action was considered at a public meeting on April 24, 2015, notice of which was given by publication on the Board’s website at <http://dhmh.maryland.gov/bopc/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 repeal certain fees and to increase existing fees or establish new fees to ensure that the Board has sufficient funds to operate.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

The Board is special funded and must be able to generate sufficient funds to pay its operating expenses. The Board cannot run a deficit and is required to maintain a certain fund balance percentage. The proposed increase will put the Board on a path to eliminating its current projected deficit.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(R+)	\$279,076
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$279,076
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.)

A. The \$279,076 figure is the difference between the Board's current projected revenue for FY 2016 without the fee increase and the Board's projected revenue including the fee increase for FY 2016.

\$923,226 (projected revenue including fee increase) - \$644, 150 (projected revenue without fee increase) = \$279, 076.

D. See A.

**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](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through August 10, 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.

It is incumbent upon a licensee, certificate holder, or trainee to pay the fees required for the appropriate credential or service provided by the Board, not upon a small business.

G. Small Business Worksheet:

Attached Document:

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**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL**  
**HYGIENE**  
**Subtitle 58 – BOARD OF PROFESSIONAL COUNSELORS AND**  
**THERAPISTS**

Authority: Health Occupations Article, §§17–205, 17–206, and 17–310, Annotated Code of Maryland

**.02 Fee Schedule.** (*downloaded 4/30/2015*)

The following fees are established by the Board for items or services provided under this subtitle:

- A. Application processing fee [... \$75]
  - (1) *For certificate and trainee status...\$150;*
  - (2) *For licensure...\$250;*
- [B.] Initial application review fee ... \$75;]
- [C.] B. Subsequent application review fee ... [\$25] \$50;
- [D.] C. Preapplication credentials evaluation fee ... [\$25] \$50;
- [E.] D. Certification [and licensure] fee ... \$100;
- E. *Licensure fee...\$200;*
- F. Certification *and trainee* renewal fee ... [\$150] \$200;
- G. Licensure renewal fee ... [\$200] \$275;
- H. Late renewal fee (in addition to §§F [and] *or* G of this regulation) ... \$50;
- I. (text unchanged)
- J. Duplicate *or replacement* certificate or license ... \$15;
- [K.] Replacement certificate or license ... \$15;]
- [L.] K. — [M.] L. (text unchanged)
- [N.] M. Inactive status (annual) ... [\$25] \$50;
- [O.] N. Reinstatement fee [... \$100]
  - (1) *For certificate...\$150;*
  - (2) *For license...\$200;*
- [P.] Maintenance of Letters of Intent ... \$15;]
- [Q.] O. 2-year sponsorship of continuing education programs [... \$100]
  - (1) *For organization...\$750;*
  - (2) *For individual...\$300; or*
  - (3) *For an individual workshop...\$150;*
- [R.] P. — [T.] R. (text unchanged)

[U.] S. Failure to notify of change of address...\$25;  
T. Copy and scanning fee...\$2 per page; and  
U. Out-of-state application processing fee...\$250.

**VAN T. MITCHELL**

**Secretary of Health and Mental Hygiene**

## **FEE JUSTIFICATION FOR PROPOSED COMAR 10.58.02**

(1) Explain/justify why an increase or decrease is necessary:

Without an increase in fees, the Board is projected to run a deficit in future fiscal years.

(2) How much money is needed to operate effectively or to eliminate an operating fund deficit?

Approximately \$1 million.

(3) In what year was the most recent fee increase?

Approximately 20 years ago.

(4) Is the fee revenue retained by the Proposing Unit or passed through to a national organization that administers a uniform licensing exam?

Retained by the Proposing Unit

(5) Describe any measures taken to mitigate the need for increased revenue:

The Board went through numerous drafts of this proposal and consulted with its Fiscal Officer and licensing staff to determine the most appropriate increase based on the impact to licensees and the Board's fiscal needs.

(6) Describe any special circumstances that have had an adverse impact on the Proposing Unit's operating expenses.

The Board in recent years has added two new licensing groups, behavior analysts and art therapists, without increasing its staff and while personnel costs, rent, and other costs outside of its control have increased. Additionally, where most Boards review their fees every 5 years to determine if an increase is needed, the Board has not increased fees in about 20 years.

(7) Describe any consideration given by the Proposing Unit as to the hardship a fee increase may have on the regulated profession.

The Board did not make this decision lightly as it would have been irresponsible of the Board to impose an increase without first doing a thorough review of its needs. The Board did hear the concerns of different representatives of the professional associations and Board members and went back to review and readjusted the proposed increase to what is being proposed.

(8) Describe any efforts to solicit the opinions of licensees regarding the Proposing Unit's effectiveness and performance.

The Board keeps in regular contact with representatives of associations that represent its various licensure groups. Representatives of these associations also regularly attend Board meetings. As an example, the Board received complaints in past years about difficulty applicants were having with obtaining licensure or certification and confusion within the profession about requirements. As a result, the Board had a series of meetings with Board members, licensees, and the professional association representing these licensees and produced a legislative proposal that simplified and updated licensure and certification requirements. The bill passed the legislature during the 2015 session and is waiting to be signed by Governor Hogan.