

MARYLAND REGISTER

## Proposed Action on Regulations

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|--|---|--|
| <b>Transmittal Sheet</b><br><br><b>PROPOSED<br/>OR REPROPOSED</b><br><br><b>Actions on Regulations</b> | <b>Date Filed with AELR<br/>Committee</b> | <b>TO BE COMPLETED BY<br/>DSD</b>              |
|  | 09/14/2015                                | Date Filed with Division of<br>State Documents |
|  |   | Document Number                                |
|  |   | Date of Publication in MD<br>Register          |
|  |   |  |

**1. Desired date of publication in Maryland Register: 10/16/2015**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

10 12 04 04

**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**

Amanda Thomas

**Telephone No.**

410-402-8054

**Email Address**

amanda.thomas@maryland.gov

**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: September 9, 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 Paul Ballard, Assistant Attorney General, (telephone #410-767-6918) on September 10, 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**

September 11, 2015

**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

**Subtitle 12 ADULT HEALTH**

**10.12.04 Day Care for the Elderly and Adults with a Medical Disability**

Authority: Health-General Article, §§2-104, 14-206, and 14-304, Annotated Code of Maryland

**Notice of Proposed Action**

[]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .04 under COMAR 10.12.04 Day Care for the Elderly and Adults with a Medical Disability.

**Statement of Purpose**

The purpose of this action is to eliminate the fee of \$100 per site visit that is imposed on Adult Medical Day Care Programs when additional site visits are required before issuance of a license due to significant regulatory violations.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

It is anticipated that the elimination of this fee will result in minimal to no impact on the regulated industry and on the Department since this fee has been rarely utilized.

**II. Types of Economic Impact.**

|                             | Revenue (R+/R-)     |               |
|-----------------------------|---------------------|---------------|
|                             | Expenditure (E+/E-) | Magnitude     |
| <hr/>                       |                     |               |
| A. On issuing agency:       | (R-)                | Indeterminate |
| B. On other State agencies: | NONE                |               |
| C. On local governments:    | NONE                |               |
| <hr/>                       |                     |               |
|                             | 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.)

A. This fee is levied on facilities that require the surveyor to repeat an inspection. As this fee has rarely been applied (\$100 - \$300 per year total charged to all Adult Medical Day Care providers combined), however the economic impact cannot be determined as a result of removing the fee.

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 November 16, 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?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General funds.

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.

A rarely imposed fee will no longer be charged.

G. Small Business Worksheet:

Attached Document:

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## Title 10

# DEPARTMENT OF HEALTH AND MENTAL HYGIENE

### Subtitle 12 ADULT HEALTH

#### 10.12.04 Day Care for the Elderly and Adults with a Medical Disability

Authority: Health-General Article, §§2-104, 14-206, and 14-304, Annotated Code of Maryland

*10.12.04.04 (9/9/15)*

##### **.04 Licensing Procedure.**

A. Letter of Interest.

(1)—(4) (text unchanged)

(5) License fee for initials and renewals.

(a)—(b) (text unchanged)

[(c) The fee includes a maximum of two pre-licensure site visits by the Department. When additional site visits are required before issuance of a license due to significant regulatory violations, the Department shall assess an additional fee of \$100 per site visit.]

B.—E. (text unchanged).

**VAN T. MITCHELL**

**Secretary of Health and Mental Hygiene**

### FEE JUSTIFICATION

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

The fee is not needed as shown by the rare instances in which it has been imposed.

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

The FY approved operating budget was \$285,701 to operate effectively.

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

There have been no fee increases in the recent past.

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

The fee is not retained by OHCQ but is passed through the General Fund.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

AMDC unit solicited opinions from the providers regarding the unit's performance through provider surveys in 2014 and plans to complete these surveys again in 2015 and yearly after that. Additionally, staff attends stakeholder meetings where questions and concerns of providers are addressed.