

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-251)**

Overview and Legal and Fiscal Impact

The regulations reduce the fee to renew a pharmacy permit, the fee for approval of a pharmacy technician training program by the Board of Pharmacy, and the duplicate pharmacy permit fee and repeal a pharmacy technician administration fee for a pharmacy student.

The regulations present no legal issues of concern.

Special fund revenues for the State Board of Pharmacy decline by approximately \$97,755 annually.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Board of Pharmacy: Fees: COMAR 10.34.09.02 and .04

Legal Analysis

Background

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. These regulations are part of that plan. Additional information regarding Governor Hogan's fee reduction initiative may be found [here](#).

Summary of Regulations

The regulations reduce from: (1) \$600 to \$500 the biennial fee to renew a pharmacy permit; (2) \$200 to \$100 the fee for approval of a pharmacy technician training program by the board; and (3) \$30 to \$10 the duplicate pharmacy permit fee. The regulations repeal a pharmacy technician administration fee for a pharmacy student.

In addition, the regulations alter the specified month for a pharmacy to pay a late renewal fee and reinstatement fee and for a wholesale distributor to pay a reinstatement fee to coincide with the renewal months set by the board as authorized under §§ 12-308 and 12-6C-06 of the Health Occupations Article. The regulations move the fees for a pharmacy intern registration fee and a pharmacy intern registration renewal fee from COMAR 10.34.09.04 to COMAR 10.34.09.02.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 12-205, 12-206, 12-302, 12-303, 12-305, 12-308, 12-310, 12-404, 12-407, 12-601, 12-6B-02, 12-6B-03, 12-6B-04, 12-6B-07, 12-6C-03, 12-6C-04, 12-6C-05, 12-6C-06, 12-5D-05, 12-6D-06, and 12-6D-09 of the Health Occupations Article as statutory authority for the regulations.

Section 12-205 authorizes the board to adopt regulations to carry out specified provisions of law. Section 12-206 authorizes the board to set reasonable fees for the issuance and renewal of licenses and registrations and its other services. Sections 12-302, 12-303, 12-305, 12-308, and 12-310 establish qualifications and requirements for an applicant for a license to practice pharmacy in the State. Sections 12-404 and 12-407 establish requirements for the issuance and renewal of a pharmacy permit. Sections 12-6B-02, 12-6B-03, 12-6B-04, and 12-6B-07 establish qualifications and requirements for registration for a pharmacy technician. Sections 12-6C-03, 12-6C-04, 12-6C-05, and 12-6C-06 establish qualifications and requirements for an applicant for a wholesale distributor permit. Sections 12-6D-05, 12-5D-06, and 12-6D-09 establish qualifications and application requirements for registered pharmacy interns.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The department also cites § 12-601 of the Health Occupations Article. Section 12-601 authorizes the board to take disciplinary action against holders of specified permits, which is not relevant to the regulations.

Fiscal Analysis

Special fund revenues for the State Board of Pharmacy decline by approximately \$97,755 annually.

Agency Estimate of Projected Fiscal Impact

The regulations reduce fees and make technical corrections to align existing regulations with statute. Specifically, the biennial fee to renew a pharmacy permit is reduced from \$600 to \$500, the one-time fee for approval of a pharmacy technician training program is reduced from \$200 to \$100, and the fee for a duplicate pharmacy permit is reduced from \$30 to \$10. The department advises that the regulations reduce special fund revenues for the board by \$195,510 on a biennial basis – \$193,100 from the reduction in the pharmacy permit renewal fee for 1,931 pharmacies, \$1,410 from the reduction in duplicate pharmacy permit fees, and \$1,000 from

the reduction in the fee for approval of a pharmacy technician training program. This represents approximately \$97,755 in reduced special fund revenues for the board on an annual basis. The Department of Legislative Services concurs.

Impact on Budget

Although special fund revenues decline, there is no material 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 in the State. The Department of Legislative Services concurs.

Additional Comments

The department advises that the board is able to absorb the decrease in fees without interrupting business operations. The fiscal 2015 closing balance for the State Board of Pharmacy Fund was \$1,910,208, and the fiscal 2016 closing balance is anticipated to be \$1,018,642. This figure does not reflect the impact of the proposed regulations on board revenues. The pharmacy permit renewal fee was last altered in 2009, when the fee was increased from \$250 to \$600. The fee for a duplicate license or permit was also increased in 2009, from \$10 to \$30.

Contact Information

Legal Analysis: Lynne Blume Rosen – (410) 946/(301) 970-5350

Fiscal Analysis: Jennifer B. Chasse – (410) 946/(301) 970-5510