

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 16-044)**

Overview and Legal and Fiscal Impact

The regulation alters from \$2,100 every three years to \$1,000 every three years the amount of a nonrefundable license renewal fee for an applicant for renewal of a license to own, manage, or operate a residential service agency.

The regulation presents no legal issues of concern.

There is no additional fiscal impact on State or local agencies beyond that already assumed in the fiscal analysis for DLS Control No. 15-244.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Hospitals: Residential Service Agencies: COMAR 10.07.05.04

Legal Analysis

Background

COMAR 10.07.05.02B(25) defines a “residential service agency” to mean (1) an individual, partnership, firm, association, corporation, or other entity of any kind that is engaged in a nongovernmental business of employing or contracting with individuals to provide at least one home health care service for compensation to an unrelated sick or disabled individual in the residence of that individual or (2) an agency that employs or contracts with individuals directly for hire as home health care providers.

COMAR 10.07.05.04I requires a holder of a license to operate a residential service agency in the State to submit to the Department of Health and Mental Hygiene:

- An application for license renewal;
- A nonrefundable license renewal fee as follows (1) before July 1, 2014, \$700 payable to the department for a one-year licensing fee and (2) after July 1, 2014, \$2,100 payable to the department for a three-year licensing fee;

- Copies of any policies and procedures that have changed substantively since they were previously reviewed by the department, including those relevant to handling of complaints made to the agency and evaluation and assessments of clients;
- Valid professional licenses and certificates for all current employees; and
- An annual data collection survey in the form and manner prescribed by the Secretary of Health and Mental Hygiene with each application for license renewal.

The department published a change to the amount of the license renewal fee for an applicant for renewal of a license to own, manage, or operate a residential service agency in the *Maryland Register* dated October 16, 2015 that became effective on December 21, 2015. The department included the appropriate change to COMAR 10.07.05.04A. However, corresponding changes to conform COMAR 10.07.05.04H and I(2) to the new amount were omitted. The regulation corrects this omission.

Summary of Regulation

The regulation alters from \$2,100 every three years to \$1,000 every three years the amount of a nonrefundable license renewal fee for an applicant for renewal of a license to own, manage, or operate a residential service agency.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites Title 19, Subtitle 4A of the Health – General Article as statutory authority for the regulation. Title 19, Subtitle 4A (1) requires the department to adopt regulations that set standards for the care, treatment, health, safety, welfare, and comfort of individuals who receive home health care services through a residential services agency; (2) requires a person to be licensed by the department before the person may operate a residential service agency; (3) establishes requirements for licensure; (4) specifies the powers and duties of the department regarding residential service agencies; (5) prohibits unlicensed activity; (6) establishes a penalty for the unlicensed operation of a residential service agency; (7) establishes a penalty for a violation of regulations adopted under the subtitle; and (8) except as provided by federal law, provides that licensure does not entitle a residential service agency to reimbursement by a third party provider.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is no additional fiscal impact on State or local agencies beyond that already assumed in the fiscal analysis for DLS Control No. 15-244.

Agency Estimate of Projected Fiscal Impact

The department advises that the change is a technical correction to conform the license renewal fee paid by residential service agencies to the initial license fee. This fee was reduced from \$2,100 to \$1,000 for a three-year period by 10.07.05.04 (DLS Control No. 15-244), effective December 21, 2015. As such, the present change has no impact on State or local governments.

The Department of Legislative Services concurs, and notes that the total fiscal impact of adjusting all license fees (both initial and renewal fees) was included in the fiscal analysis of DLS Control No. 15-244. That analysis noted that general fund revenues decline by approximately \$165,000 in fiscal 2016 and 2017, due to reduced licensure fees paid by about 150 new residential service agencies each year. Beginning in fiscal 2018, general fund revenues decrease by approximately \$990,000, representing the remaining 75% of licensees renewing and accounting for replacement due to continued attrition. The impact over the three-year licensure period totals \$1,320,000. A similar pattern likely continues in the out-years.

Impact on Budget

There is no impact on the State operating or capital budget beyond that already assumed under DLS Control No. 15-244.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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