

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulation  
Department of Health and Mental Hygiene  
(DLS Control No. 16-057)**

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**Overview and Legal and Fiscal Impact**

The regulation requires the Department of Health and Mental Hygiene to visit and conduct a specified survey of each licensed nursing home at least once per calendar year.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulation of COMAR Affected**

**Department of Health and Mental Hygiene:**

Hospitals: Comprehensive Care Facilities and Extended Care Facilities:  
COMAR 10.07.02.05

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**Legal Analysis**

**Summary of Regulation**

The regulation requires the department to visit and conduct a full survey of each licensed nursing home at least once per calendar year. The survey must be conducted on an unannounced basis.

**Legal Issues**

The regulation presents no legal issues of concern.

**Statutory Authority and Legislative Intent**

The department cites various sections in Title 19, Subtitles 3 and 14, of the Health – General Article and § 14-110.1 of the Public Safety Article as statutory authority for the regulation. More specifically, the regulation is authorized by §§ 19-308, 19-1401, and 19-1408 of the Health – General Article. Section 19-308 authorizes the Secretary of Health and Mental Hygiene to adopt regulations that set standards for the care of patients in specified health care facilities. Section 19-1401 defines terms, including a “nursing home”. Section 19-1408 requires the department to visit and conduct a full unannounced survey of each licensed nursing home at least once per calendar year.

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

### **Technical Corrections**

In response to suggestions from the Department of Legislative Services, the department agrees to make the following changes to the regulation:

- narrowing the statutory authority for the regulation to be only §§ 19-308, 19-1401, and 19-1408 of the Health – General Article.; and
- adding language to the regulation that the surveys must be conducted on an unannounced basis, as described above.

### **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

### **Agency Estimate of Projected Fiscal Impact**

The regulation adds a requirement that the Department of Health and Mental Hygiene (DHMH) conduct a site visit and survey of each licensed nursing home at least once per year. As this is already required under § 19-1408 of the Health – General Article, DHMH advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs and advises that the regulation is consistent with Chapter 41 of 2015 (Senate Bill 596, which reduced the required frequency of such surveys from at least twice per year to at least once per year). The fiscal and policy note for Senate Bill 596 advised that State finances would not be affected since the change in frequency reflected current practice and staffing realities as well as mirrored federal requirements.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

DHMH 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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