

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
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1. Desired date of publication in Maryland Register: 6/10/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

10 32 20 03, .08-10, .15, .17 and .18

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

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Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 32 BOARD OF PHYSICIANS

10.32.20 Licensure of Perfusionists

Authority: Health Occupations Article, §14-5E-01—14-5E-20, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Health and Mental Hygiene proposes to amend Regulations .03, .08-.10, .15, .17 and .18 under COMAR 10.32.20 Licensure of Perfusionists.

This action was considered by the full Board at a public meeting held on December 16, 2015, notice of which was given by publication on the Board of Physicians website at <http://www.mbp.state.md.us/forms/jul15FULLagenda.pdf> from December 2 through December 16, 2015 pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to :

- 1) Amend the civil fine authority of the Board;
- 2) Alter the circumstances for reinstatement;
- 3) Provide for an extension of a temporary license prior to taking the national certifying examination; and
- 4) Alter the membership requirements of the Perfusion Advisory Committee resulting from the enactment of HB 692-Maryland Perfusion Act-Revisions, Chapter 609 in 2014.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

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, or fax to 410-767-6483. Comments will be accepted through July 11, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2017
- 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:
There are no changes in fees.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
See E.
- G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

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Authority: Health Occupations Article, §14-5E-01—14-5E-20, Annotated Code of Maryland

10.32.20.03 (10/21/14)

.03 Perfusion Advisory Committee.

- A. The Board shall appoint members of the Committee as follows:
 - (1) (text unchanged)
 - (2) Three physicians, at least one of whom performs cardiac or cardio-thoracic surgery *or is a cardiac anesthesiologist*; and
 - (3) (text unchanged)

B.—F. (text unchanged)

.08 Identification; Notice.

A. (text unchanged)

B. [Posting of] License.

(1) A licensed perfusionist shall [post the perfusionist's license in the office or place of employment of the perfusionist]:

(a) *Keep a copy of the licensee's license in their employment file; and*

(b) *Make the license available for inspection upon request.*

(2) If the perfusionist has multiple places of employment, copies of the license may be [posted] *kept* in accordance with §B(1) of this regulation.

C. (text unchanged)

10.32.20.09

.09 Terms of Perfusionist-Basic License.

A. Term and Expiration.

(1) (text unchanged)

(2) [A] *Except as provided in §§D and E of this regulation, a perfusionist-basic license may not be renewed or extended beyond the 2-year expiration date.*

(3)—(4) (text unchanged)

B.—C. (text unchanged)

D. The Board may permit a perfusionist with a basic license to continue to practice on that license if extenuating circumstances prevented the applicant for an advanced license from taking the national certifying examination given by the American Board of Cardiovascular Perfusion. The applicant shall specify the:

(1) *Extenuating circumstances; and*

(2) *Basis for granting the request.*

E. Petition for Extension.

(1) *At the discretion of the Board, a petition for extension of a perfusionist-basic license expiration date may be considered if:*

(a) *The licensee:*

(i) *Incurs a hardship that prevents the licensee from active use of the perfusionist-basic license for a period of at least 45 consecutive calendar days;*

(ii) *Provides a written request, with supporting documentation if applicable, stating the extenuating circumstances that will prohibit or has prohibited the licensee from active use of the perfusionist-basic license for at least 45 consecutive calendar days; and*

(iii) *Provides an anticipated date for resuming activity on the perfusionist-basic license; and*

(b) *The national certifying examination has been administered during no more than three testing windows from the time the application for the perfusionist basic license was approved.*

(2) *A perfusionist with a basic license may not practice during the paused time frame. Practicing or attempting to practice without an active license is in violation of Regulation .15 of this chapter and is punishable under that regulation.*

(3) *The Board may grant a one-time extension of the perfusionist-basic license expiration date but the extension may not exceed the time period that the perfusionist with the basic license did not have active use of the license.*

(4) *The Board may grant an extension if the Board determines that failure to fulfill the license requirements is clearly the result of:*

(a) *Functional impairment;*

(b) *Prolonged and serious illness;*

(c) *Mandatory military service or deployment;*

(d) *A prolonged absence from the United States;*

(e) *An officially declared disaster; or*

(f) *Other exceptional circumstances beyond the control of the applicant.*

(5) *Failing the national certification examination is not grounds for obtaining an extension.*

10.32.20.10

.10 Renewal and Reinstatement of Licensure as a Perfusionist-Advanced.

A.—B. (text unchanged)

C. Reinstatement [within 30 Days]. The Board shall reinstate the license of a perfusionist-advanced who has failed to renew the license for any reason if the perfusionist-advanced:

(1) Applies for reinstatement [within 30 days] after the date the license expires;

(2)—(3) (text unchanged)

[D. License Expiration. After 30 days. An individual who fails to renew or reinstate a perfusionist-advanced license within 30 days after expiration shall meet the current requirements for licensure as a perfusionist-advanced.]

[E.] D. (text unchanged)

10.32.20.15

.15 [Penalty for Unlicensed Practice] Penalties.

A. (text unchanged)

B. An individual who violates [§A] *any provision* of this [regulation] *chapter* is subject to a civil fine of not more than \$5,000 to be levied by the Board.

C. (text unchanged)

10.32.20.17

.17 Required Reports.

A. (text unchanged)

B. If the action taken by a hospital, related institution, alternative health system, or employer under §A of this regulation relates to alcohol or drug impairment, the hospital, related institution, alternative health system or employer is not required to report the perfusionist to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensed perfusionist is:

(a) In an alcohol or drug treatment program that is [accredited]:

(i) *Accredited* by The Joint Commission *or its successor*; or [is certified]

(ii) *Certified* by the Department of Health and Mental Hygiene; or

(b) (text unchanged)

(2)—(3) (text unchanged)

C. If a licensed perfusionist enters or is considering entering an alcohol or drug treatment program that is accredited by The Joint Commission *or its successor* that is certified by the Department of Health and Mental Hygiene, the licensed perfusionist shall notify the hospital, related institution, alternative health system, or employer of the licensed perfusionist's decision to enter the treatment program.

D.—I. (text unchanged)

10.32.20.18

.18 Fines, Penalties, and Sanctioning

A. General Application of Sanctioning Guidelines.

(1) (text unchanged)

(2) Except as provided in §B of this regulation, for violations of Health Occupations Article §14-5E-16 Annotated Code of Maryland, *listed in the sanctioning guidelines*, the Board shall impose a sanction not less severe than the minimum listed in the sanctioning guidelines nor more severe than the maximum listed in the sanctioning guidelines for each offense.

(3) Ranking of Sanctions.

(a)—(c) (text unchanged)

(d) *A fine listed in the sanctioning guidelines may be imposed in addition to, but not as a substitute for a sanction. If a fine is listed, then at least the minimum fine will be imposed in addition to the sanction.*

(e) *The imposition of a fine does not affect the making of the sanction.*

(4)—(7) (text unchanged)

B. (text unchanged)

C. Offenses Related to Continuing Medical Education Credits.

[(1) Section C (2) and (3) of this regulation does not limit the Board's authority to require completion of the missing continuing education credits.]

[(2)] (1) (text unchanged)

[(3)] (2) Licensees Previously Disciplined Under [§C(2)] §C(1) of this regulation.

(a) (text unchanged)

(b) The Board may not apply the sanction described in [§C(2)] §C(1) of this regulation in determining a sanction for a licensee previously disciplined for an offense related to continuing medical education credits.

D. Offenses Related to Clinical Activity.

[(1) Section D (2) and (3) of this regulation does not limit the Board's authority to require completion of the missing clinical activities.]

[(2)] (1) (text unchanged)

[(3)] (2) Licensees Previously Disciplined Under [§D(2)] §D(1) of this regulation.

(a) (text unchanged)

(b) The Board may not apply the sanction described in [§D(2)] §D(1) of this regulation in determining as sanction for a licensee previously *fined or* disciplined for an offense related to criminal activities.

VAN T. MITCHELL

Secretary of Health and Mental Hygiene

