

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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		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/19/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

12 10 01 22

3. Name of Promulgating Authority

Department of Public Safety and Correctional Services

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Title 12
DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES

Subtitle 10 CORRECTIONAL TRAINING COMMISSION

12.10.01 General Regulations

Authority: Correctional Services Article, §2-109 and Public Safety Article, §3-207,
Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Public Safety and Correctional Services proposes to amend Regulation .22 under COMAR 12.10.01 General Regulations, in cooperation with the Correctional Training Commission.

This action was considered by the Correctional Training Commission at a public meeting on May 18, 2016.

Statement of Purpose

The purpose of this action is to modify and re-define the criteria and requirements for prior substance abuse by applicants for mandated correctional officer certification.

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 Albert Liebno, Deputy Director, Maryland Police and Correctional Training Commission, 6852 4th Street Sykesville, MD 21784, or call 410 875 3602, or email to , or fax to 410 875 3584. Comments will be accepted through September 15, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Correctional Training Commission during a public meeting to be held on to be announced, at to be announced.

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?

Yes

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

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:
This is an administrative change to the process for certification of applicants for mandated correctional officer positions.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
These regulations affect State and local government only.

G. Small Business Worksheet:

Attached Document:

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 10 CORRECTIONAL TRAINING COMMISSION

Chapter 01 General Regulations

Authority: Correctional Services Article, §§2-109 and 8-208; Public Safety Article, §3-207; Annotated Code of Maryland

.22 Prior Substance Abuse by Applicants for Certification.

A. (text unchanged)

B. General Policy.

(1) (text unchanged)

(2) The Commission may not approve an appointment or certify an individual in a mandated position if:

(a) There is an indication that the individual illegally abused *or used* a controlled dangerous substance [in excess of the maximum prior use criteria or for circumstances] *or performance enhancing drug for no legitimate medical reason within the past 3 years as specified in this regulation*; or

(b) (text unchanged)

(3) (text unchanged)

C. [Maximum] Prior *and Current* Use Criteria.

(1) *The Commission may not certify an individual in a mandated position who used the following drugs for no legitimate reason within the 3 years immediately before the date of the application:*

(a) Amphetamines. Drugs in this class may have a legitimate medical use. [If used illegally, the allowable limits for this use by an applicant are:

(a) Four lifetime ingestions, including intravenous use; and

(b) 3 years from the last illegal use to the date of application for a mandated position.]

[(2)] (b) Barbiturates. Drugs in this class may have a legitimate medical use. [If used illegally, the allowable limits for this use by an applicant are:

(a) Two lifetime ingestions, including intravenous use; and

(b) 3 years from the last illegal use to the date of application for a mandated position.]

[(3)] (c) Opiates. Some drugs such as morphine and codeine in this class have a legitimate medical use, while others, such as opium and heroin have no medical use. [If used illegally, the allowable limits for this use by an applicant are:

(a) Two lifetime ingestions, including intravenous use; and

(b) 3 years from the last illegal use to the date of application for a mandated position.]

[(4)] (d) Cannabis or Cannabinoids. *Drugs in this class may have a legitimate medical use.* [These substances currently have no legal medical use in Maryland. The allowable limits of prior use by an individual are as follows:

(a) 20 lifetime ingestions and 3 years from the last use to the date of application for a mandated position; or

(b) No limit on the number of lifetime ingestions and 10 years from the last use to the date of application for a mandated position.]

[(5)] (e) Cocaine or Cocaine Metabolite. These substances may have only limited topical medical use. [The limits of prior use by an individual are:

(a) Four lifetime ingestions, including intravenous use; and

(b) 3 years from the last use to the date of application for a mandated position.]

[(6)] (f) Hallucinogens (including PCP, LSD, and mescaline and their derivatives). These drugs have no medical use. [There is no allowance for prior use of these substances and an applicant who has used these drugs may not be certified by the Commission.]

[(7)] (g) Benzodiazepines. These substances have a legitimate medical use. [The allowable limits of illegal prior use by an individual are:

(a) Four lifetime ingestions; and

(b) 3 years from the last illegal use to the date of application for a mandated position.]

[(8)] (h) Inhalants (including solvents, glue, paint, aerosols, and amyl nitrates). These substances have no medical use. [The allowable limits of use by an individual are:

(a) Four lifetime ingestions; and

(b) 3 years from the last use to the date of application for a mandated position.]

(i) *Anabolic steroids (natural and synthetic), Drugs in this class may have a legitimate medical use.*

(j) *Any other substance prohibited by federal or State law.*

D. Indication of Use.

(1) If a background investigation, lie detector test, interview, drug screening, or other process indicates prior or current use of a controlled dangerous substance, narcotic drug, [or] marijuana, *or performance enhancing drug*, as specified in this regulation, the agency head, or a designee, shall investigate to determine if the use was legitimate[.] *and report the results of the investigation to the Commission with the Application for Certification.*

(2) If there is an indication that current or prior use of a controlled dangerous substance, narcotic drug, [or] marijuana, *or performance enhancing drug* is or was legitimate, the agency head, or a designee, shall obtain proper medical documentation from a licensed health care professional.

(3) If there is no legitimate medical reason for use of a controlled dangerous substance, narcotic drug, [or] marijuana, *or performance enhancing drug within the 3 years before the date of the application*[and the use exceeds the maximum standards specified in this regulation,] the Commission may not certify the applicant in a mandated position.

(4) The agency head, or a designee, shall evaluate an applicant's use of a prescribed controlled dangerous substance, narcotic drug, [or] marijuana, *or performance enhancing drug* specified in this regulation to determine whether the applicant is currently abusing the substance and is medically fit to perform the duties of a mandated position.

(5) If there is an indication of continued use of a controlled dangerous substance, narcotic drug, [or] marijuana, *or performance enhancing drug* by an applicant or if it is determined that an applicant is currently abusing or is dependent on a prescribed controlled dangerous substance, narcotic drug [or] marijuana, *or performance enhancing drug*, the Commission may not certify the applicant in a mandated position.

(6) If an applicant is using or has used a controlled dangerous substance, narcotic drug, [or] marijuana, *or performance enhancing drug* which was legally obtained for valid medical reasons and there is no indication of abuse or dependence by the applicant, the agency head, or a designee, may employ the applicant and apply to the Commission for certification in the mandated position.

(7) An agency head, or a designee, shall maintain records and documentation of an applicant's prior or current abuse, dependence on, or legitimate medical use of a controlled dangerous substance, narcotic drug, [or] marijuana, *or*

performance enhancing drug as specified in this regulation and the records and documents are subject to audit by the Commission.

E. (text unchanged)

Stephen T. Moyer

Secretary