

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Health and Mental Hygiene  
(DLS Control No. 16-193)**

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## **Overview and Legal and Fiscal Impact**

The regulations separate the existing regulations for State Board of Chiropractic and Massage Therapy Examiners into separate subtitles for the State Board of Chiropractic Examiners and the State Board of Massage Therapy Examiners and make conforming and clarifying changes. Substantive changes include repealing references to approval of trade names and aligning the approval and accreditation requirements for massage therapy education programs for licensed massage therapists and registered massage practitioners.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **Department of Health and Mental Hygiene:**

Board of Chiropractic Examiners: General Regulations: COMAR 10.43.01.01 through .06  
Advertising: COMAR 10.43.03.01 through .03  
Licensure by Credentials for Chiropractors: COMAR 10.43.04.01  
Chiropractic Externship Program: COMAR 10.43.05.02 and .03  
Fees: COMAR 10.43.06.02 through .05  
Chiropractic Assistants: COMAR 10.43.07.01 and .09  
Licensure and Registration Examination – Special Needs Applicants:  
COMAR 10.43.08.01 and .02  
Monetary Penalties: COMAR 10.43.09.02  
Continuing Education Requirements: COMAR 10.43.10.02  
Licensure Examination: COMAR 10.43.11.02  
Procedures for Clinical Demonstrations in Public Places:  
COMAR 10.43.12.01 through .07  
Code of Ethics: COMAR 10.43.13.01 through .10  
Record Keeping: COMAR 10.43.14.02  
Sanctioning Guidelines: COMAR 10.43.15.02  
Board of Massage Therapy Examiners: General Regulations:  
COMAR 10.65.01.01 through .14  
Rules of Procedure for Board Hearings: COMAR 10.65.02.01 through .09  
Code of Ethics: COMAR 10.65.03.03 and .09  
Advertising: COMAR 10.65.04.01 through .03 and .06  
Continuing Education Requirements: COMAR 10.65.05.01 through .04  
Record Keeping: COMAR 10.65.06.01 and .02  
Fees: COMAR 10.65.07.01 through .04

Licensure and Registration Examination – Special Needs Applicants:  
COMAR 10.65.08.01 and .02  
Sanctioning Guidelines: COMAR 10.65.09.01 through .06

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## **Legal Analysis**

### **Background**

Chapter 229 of 2015 repealed the requirement that a licensed chiropractor, licensed massage therapist, or registered massage practitioner obtain approval from the State Board of Chiropractic and Massage Therapy Examiners prior to using a trade name.

Chapter 739 of 2016, effective October 1, 2016, separated the State Board of Chiropractic and Massage Therapy Examiners into two boards – the State Board of Chiropractic Examiners and the State Board of Massage Therapy Examiners – and made conforming changes. The Act provided for the membership and scope of the two boards, and established a separate special fund for each board. However, the two boards continue to share existing staff of the State Board of Chiropractic and Massage Therapy Examiners.

### **Summary of Regulations**

The regulations separate the existing regulations for the State Board of Chiropractic and Massage Therapy Examiners into separate subtitles for the State Board of Chiropractic Examiners and the State Board of Massage Therapy Examiners and make conforming and clarifying changes. COMAR 10.43 includes provisions for the State Board of Chiropractic Examiners and chiropractic. COMAR 10.65 includes provisions for the State Board of Massage Therapy Examiners and massage therapy. Substantive changes include (1) repealing references to the requirement that a licensed chiropractor, licensed massage therapist, or registered massage practitioner obtain board approval prior to using a trade name and (2) aligning the approval and accreditation requirements for massage therapy education programs for licensed massage therapists and registered massage practitioners by requiring a program to be approved by the Maryland Higher Education Commission or a comparable authority where the school is located and accredited by the Commission on Massage Therapy Accreditation or an accrediting agency recognized by the United State Department of Education.

### **Legal Issues**

The regulations present no legal issues of concern.

### **Statutory Authority and Legislative Intent**

The Department of Health and Mental Hygiene cites §§ 1–212, 1-606, 3-205, 3-206, 3-301, 3-302.1, 3-305, 3-313, 3-315, 3-401, 3-404, 6-101, 6-102, 6-201 through 6-206, 6-207, 6-301

through 6-306, 6-308, 6-309, 6-310, and 6-401 of the Health Occupations Article and § 10-206 of the State Government Article as statutory authority for the regulations. More specifically, the regulations are authorized by §§ 1-212, 1-606, 3-205, and 6-206 of the Health Occupations Article and § 10-206 of the State Government Article.

Section 1-212 of the Health Occupations Article requires each health occupation board to adopt regulations that prohibit sexual misconduct and provide for the discipline for a licensee or certificate holder found to be guilty of sexual misconduct. Section 1-606 requires each health occupations board to adopt specific sanctioning guidelines. Section 3-205 authorizes the State Board of Chiropractic Examiners to adopt regulations to carry out the provisions of Title 3 of the Health Occupations Article regarding chiropractors. Section 6-206 authorizes the State Board of Massage Therapy Examiners to adopt regulations to carry out the provisions of Title 6 of the Health Occupations Article regarding massage therapists.

Section 10-206 of the State Government Article authorizes each agency to adopt regulations to govern procedures under Subtitle 2 of the State Government Article and contested cases before the agency.

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

### **Technical Corrections and Special Notes**

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

- alter the Statement of Purpose to reflect the requirement that massage therapy education programs be approved by the Maryland Higher Education Commission or a comparable authority where the school is located *and* accredited by the Commission on Massage Therapy Accreditation or an accrediting agency recognized by the United State Department of Education; and
- correct numbering and cross references.

### **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

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

The regulations implement Chapter 229 of 2015 (House Bill 208, which repealed the requirement that specified licensees obtain trade name approval from the State Board of Chiropractic and Massage Therapy Examiners) and Chapter 739 of 2016 (House Bill 1420, which separates the board into two boards – the State Board of Chiropractic Examiners and the State Board of Massage Therapy Examiners), as well as clarify existing practices. The department

advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs and notes that any such impacts have already been accounted for in the fiscal and policy notes for the legislation.

### **Impact on Budget**

There is no 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.

### **Contact Information**

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