

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 16-215)**

Overview and Legal and Fiscal Impact

The regulations amend various existing regulations governing physicians and the allied health professions under the State Board of Physicians jurisdiction, except perfusionists and naturopathic doctors, to alter license renewal and continuing education requirements.

The regulations present no legal issues of concern. However, additional comments have been included in the *Technical Corrections and Special Notes* section below for the consideration of the Joint Committee on Administrative, Executive, and Legislative Review.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Board of Physicians: General Licensure Regulations: COMAR 10.32.01.08, .10, and .11
Delegation of Duties by a Licensed Physician-Physician Assistant: COMAR 10.32.03.09
Licensure of Polysomnographic Technologists: COMAR 10.32.06.07 and .08
Licensure of Athletic Trainers: COMAR 10.32.08.07
Licensure of Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants: COMAR 10.32.10.13
Licensing of Respiratory Care Practitioners: COMAR 10.32.11.09 and .11

Legal Analysis

Summary of Regulations

The regulations amend various existing regulations governing physicians and the allied health professions under the board's jurisdiction, except perfusionists and naturopathic doctors, to alter license renewal and continuing education requirements.

Verification of Payment of Tax Liabilities

The regulations prohibit the board from renewing licenses for physicians and various allied health professionals until the Comptroller has verified that the individual has paid all undisputed taxes and unemployment insurance contributions, or arranged for repayment, as required by COMAR 10.31.02.

Timeframe for Completion of Continuing Education Credits

The regulations also allow physicians and various allied health professionals who are renewing their licenses to meet the applicable continuing education requirements by taking the credits during the two-year period before the date the applicable license expires, rather than requiring that the credits be completed by the date the renewal application is submitted.

Additional Changes

The regulations amend COMAR 10.32.01.08 to state that the failure to receive a renewal notice does not excuse a licensed physician from complying with the requirement that a license be renewed.

The regulations amend COMAR 10.32.01.11 to remove duplicative language regarding the restoration of active status of physicians who have expired or inactive licenses.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 1-213, 14-205(a), 14-316, 14-317, 14-5A-03, 14-5A-13, 14-5A-14, 14-5B-03, 14-5B-12, 14-5C-03, 14-5C-14, 14-5D-12, 15-307, and 15-308 of the Health Occupations Article as statutory authority for the regulations. Section 1-213 requires an authority issuing a license to verify through the Comptroller that the applicant has paid all undisputed taxes and unemployment insurance contributions or has made arrangements for the payment. Section 14-205(a) authorizes the board to adopt regulations to carry out the Maryland Medical Practice Act and the Maryland Physician Assistants Act. Section 14-316 governs the term and renewal of physician licenses. Section 14-317 governs the reinstatement of expired physician licenses. Section 14-5A-03 requires the board to adopt regulations for the licensure and practice of respiratory care. Section 14-5A-13 governs the expiration, renewal, and reinstatement of respiratory care licenses. Section 14-5A-14 governs the change of name or address for licensed respiratory care practitioners. Section 14-5B-03 requires the board to adopt regulations to carry out the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act. Section 14-5B-12 governs the expiration and renewal of radiation therapy, radiography, nuclear medicine technology, and radiology assistance licenses. Section 14-5C-03 requires the board to adopt regulations for the licensure and practice of polysomnography. Section 14-5C-14 governs the expiration and renewal of polysomnography licenses. Section 14-5D-12 governs the expiration and renewal of athletic trainer licenses. Section 15-307 governs the renewal of physician assistant licenses. Finally, 15-308 governs the reinstatement of physician assistant licenses after failure to renew.

Although not cited by the department, § 14-320 of the Health Occupations Article is needed as statutory authority for the regulations. Section 14-320 governs inactive physician licenses.

With the addition of § 14-320 of the Health Occupations Article, 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 board agreed (1) to add a statement regarding technical changes and reorganization to the Statement of Purpose and 2) to add § 14-320 of the Health Occupations Article to the statutory authority for the changes to COMAR 10.32.01.

Staff for the board also agreed to remove from the regulations a change to the language in COMAR 10.32.01.08 regarding the board's authority to fine a physician whose license has expired for the unlicensed practice of medicine, to address a legal issue with the change. The change would have allowed the board to fine a physician immediately on the expiration of the license; however, § 14-606 of the Health Occupations Article provides that the civil fine for the unlicensed practice of medicine does not apply if the physician renews the license within 60 days after the expiration. The existing regulation reflects that exception and, therefore, complies with the statute.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations alter the timeframe for licensees of the State Board of Physicians to earn continuing medical education credits for licensure renewal and make other clarifying and technical changes. The department advises that the regulations have no fiscal impact. The Department of Legislative Services concurs.

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.

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