

**Maryland General Assembly  
Department of Legislative Services**

**Emergency Regulations  
Independent Agencies**  
(DLS Control No. 20-023)

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**Overview and Legal and Fiscal Impact**

The regulations grant, under certain circumstances, authority to the Chairman of the Workers' Compensation Commission to exercise certain authority as part of the commission's response to situations in which the Governor has declared an emergency under Title 14 of the Public Safety Article, or in the event of a natural or other event causing a certain significant disruption.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Independent Agencies:**

Workers' Compensation Commission:

Emergency Powers of Chairman of the Commission: COMAR 14.09.17.01, .02, and .03

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**Legal Analysis**

**Background**

Section 9-303 of the Labor and Employment Article establishes the chairman as the administrative and executive head of the commission. Subject to certain limitations, the chairman has final authority over the administrative work of the commission and its employees and the assignment of cases for hearings.

On March 5, 2020, the Governor issued a proclamation declaring a state of emergency and the existence of a catastrophic health emergency due to the outbreak of the disease, COVID-19, which is caused by the coronavirus.

**Summary of Regulations**

In Title 14, Subtitle 9, the regulations add Chapter 17, which consists of three regulations that are described below.

### Regulation .01

Chapter 17 applies to the following situations:

- the Governor has declared an emergency under Title 14 of the Public Safety Article and the emergency or directives issued by the Governor significantly affect (1) access to or the operations of one or more commission hearing locations or other commission facilities; or (2) the ability of the commission to operate effectively; or
- if the Governor has not declared an emergency under Title 14 of the Public Safety Article, in the event of a natural or other event that significantly disrupts the same functions provided in (1) or (2) above.

The regulations are intended to supplement the other regulations of Title 14, Subtitle 9; however, the regulations of Chapter 17 prevail to the extent there is conflict with any other regulation.

### Regulation .02

If the Governor has declared an emergency under Title 14 of the Public Safety Article, the chairman or the chairman's designee, is required, to the extent practicable, to consult with the following persons in order to coordinate Executive and Judicial Branch responses to the emergency as they relate to the commission:

- the Governor or the Governor's designees;
- the Maryland Emergency Management Agency;
- Executive Branch officials; and
- the Chief Judge of the Maryland Court of Appeals.

### Regulation .03

If the chairman determines that the authority provided by Regulation .01 may be exercised, the chairman may:

- amend and superintend existing continuity of operations plans;
- suspend the operation of rules or regulations that cannot be implemented as intended because of the emergency;
- identify and direct the use of alternative locations to conduct commission business if existing facilities become inaccessible or unusable;

- transfer cases pending in one hearing location that becomes inaccessible or unusable to any other hearing location;
- permit claims or documents to be filed in alternate locations or by alternative means where the normal location is not reasonably accessible or usable;
- suspend, toll, or grant relief from the time deadlines or filing requirements that otherwise would expire when there is no practical ability of a party to comply with the deadline or seek other relief;
- triage claims or issues and categories of claims or issues with respect to expedited treatment;
- suspend any commission business not deemed essential;
- designate other commissioners of the commission, recall commissioners, or commission officials to implement directives entered by the chairman or the Governor; and
- take any other appropriate action necessary to assure that essential commission business is effectively handled by the commission.

The authority granted by the regulations may be exercised only as necessary during an emergency or its immediate aftermath and, if applicable, must be compatible with any directives and orders issued by the Governor. The chairman is further required to review all directives issued and determine a reasonable schedule for the rescission of those directives.

If a situation enables the chairman to exercise the authority granted by the regulations, but the chairman is unavailable to do so, a certain commissioner or the commissioner's designee may exercise the chairman's authority granted under the regulations.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The commission cites §§ 9-105(f), 9-206(d), 9-302(f)(7), 9-309(a), 9-311(c), 9-314(b), 9-316(g)(2), 9-402.1(j), 9-404(a), 9-663(a)(1) and (2), 9-6A-04, 9-6A-07, 9-6A-11, 9-6A-16, 9-701, 9-720(a), and 9-721(a) of the Labor and Employment Article as statutory authority for the regulations. More specifically, § 9-309(a) authorizes the commission to adopt regulations to carry out Title 9 of the Labor and Employment Article.

The remaining cited authority is not relevant to these regulations.

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

### **Emergency Status**

The commission initially requested emergency status in excess of 180 days beginning March 12, 2020, and expiring September 10, 2020. In response to suggestions from the Department of Legislative Services, staff for the commission now requests emergency status beginning March 13, 2020, and expiring September 8, 2020. The amended emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The commission indicates the emergency status is necessary to grant emergency authority to the chairman to direct and coordinate the commission's response in the event of a natural or other event, for which either the Governor has declared a statewide emergency under Title 14 of the Public Safety Article, or a local state of emergency exists, that significantly disrupts access to or the operations of one or more commission hearing locations or other commission facilities or the ability of the commission to operate effectively.

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

In response to suggestions from the Department of Legislative Services, staff for the commission agreed to clarify the cross-references in regulation .01C.

### **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

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

The commission advises that the regulations have no impact on State or local governments. 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 commission 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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