

**Maryland General Assembly
Department of Legislative Services**

**Emergency Regulation
Maryland Department of Labor**
(DLS Control No. 20-061)

Overview and Legal and Fiscal Impact

The regulation authorizes an esthetician candidate to appear for an esthetician examination with a mannequin head, rather than a live model, until 90 days after the Governor removes the State of Emergency Order for COVID-19.

The regulation presents no legal issues of concern.

Regulation of COMAR Affected

Maryland Department of Labor:

Board of Cosmetologists: General Regulations: COMAR 09.22.01.11

Legal Analysis

Background

Regulations require an esthetician candidate to appear for an esthetician examination accompanied by a live model who is 16 years old or older.

On March 5, 2020, in an effort to control and prevent the spread of COVID-19 within the State, the Governor issued a proclamation declaring a state of emergency and a catastrophic health emergency within the entire state of Maryland.

Summary of Regulation

The proposed regulation authorizes an esthetician candidate to appear for an esthetician examination with a mannequin head, rather than a live model, until 90 days after the Governor removes the State of Emergency Order for COVID-19.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Maryland Department of Labor cites Title 5 of the Business Occupations and Professions Article as statutory authority for the regulation. Specifically, § 5-205(a) requires the

State Board of Cosmetologists, in addition to other specified duties, to adopt regulations for the examination of applicants for licenses and to govern the conduct of persons regulated under Title 5.

This authority is correct and complete. The regulation complies with the legislative intent off the law.

Emergency Status

The department requests emergency status beginning July 8, 2020 and expiring November 30, 2020. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The department indicates the emergency status is necessary to allow qualified esthetician candidates to take the practical exam while taking steps to reduce the spread of COVID-19.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has minimal or no impact on State or local governments as there is no additional cost associated with allowing the use of a mannequin instead of a live model for the esthetician practical examination. 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 regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

While the regulation is a temporary emergency measure in response to the spread of COVID-19, the Department of Legislative Services notes that the practical examinations for both cosmetologists and nail technicians require the use of a mannequin head; only esthetician practical examinations require the use of a live model.

Contact Information

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