

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	11/10/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 12/28/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

10 32 09 02

10 32 12 02 and .04

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

Michele Phinney

Telephone Number

410-767-5623

Mailing Address

201 W. Preston Street

City State Zip Code

Baltimore MD 21201

Email

michele.phinney@maryland.gov

5. Name of Person to Call About this Document

Mark Woodard

Telephone No.

410-764-2460

Email Address

mark.woodard@maryland.gov

6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: October 1, 2015.
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:

: Md. R
 (vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by David Finkler, Assistant Attorney General, (telephone #410-767-5578) on October 22, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Van T. Mitchell

Title

Secretary

Telephone No.

410-767-6500

Date

November 9, 2015

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 32 BOARD OF PHYSICIANS

10.32.09 Delegation and Assignment of Performance of Cosmetic Medical Procedures and Use of Cosmetic Devices

Subtitle 32 BOARD OF PHYSICIANS

10.32.12 Delegation of Acts by a Licensed Physician to an Assistant not Otherwise Authorized under the Health Occupations Article or the Education Article

Authority: See proposal.

Notice of Proposed Action

[]

The Secretary of Health and Mental Hygiene proposes to amend:

- (1) Regulation .02 under COMAR 10.32.09 Delegation and Assignment of Performance of Cosmetic Medical Procedures and Use of Cosmetic Devices;
- (2) Regulations .02 and .04 under COMAR 10.32.12 Delegation of Acts by a Licensed Physician to an Assistant not Otherwise Authorized under the Health Occupations Article or the Education Article.

This action was considered at a public meeting held September 30, 2015 notice of which was given by publication on the Board of Physicians website <http://www.mbp.state.md.us/forms/sep16Fullagenda.pdf> from September 16 through September 30, 2015, pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to :

- (1) Delete “microdermabrasion device” as a cosmetic medical device;
- (2) Delete “microdermabrasion” as a cosmetic medical procedure and replace it with “dermabrasion”;
- (3) Define “dermabrasion”;
- (4) Revise delegable acts to include “microdermabrasion” to the list of actions that can be delegated by a physician to an unlicensed medical assistant without on-site supervision; and
- (5) Define “microdermabrasion.”

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 Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through January 27, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

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

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:

These regulations do not increase or decrease a fee on licensees.

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 do not increase or decrease a fee on plastic surgeons who perform cosmetic medical procedures.

G. Small Business Worksheet:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle BOARD OF PHYSICIANS

10.32.09 Delegation and Assignment of Performance of Cosmetic Medical Procedures and Use of Cosmetic Medical Devices

Authority: Health Occupations Article, §§14-205, 14-306, 14-404, 14-606, and 15-302, Annotated Code of Maryland

10.32.09.02 (10/1/15)

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1)—(3) (text unchanged)
 - (4) Cosmetic Medical Device.
 - (a) (text unchanged)
 - (b) "Cosmetic medical device" includes any of the following items, when the item is used for cosmetic purposes:
 - (i)—(ii) (text unchanged)
 - (iii) Device emitting radio frequency, electric pulses, or sound waves; *and*
 - [(iv) Microdermabrasion device; and]
 - [(v)] (iv) (text unchanged)
 - (5) Cosmetic Medical Procedure.
 - (a) (text unchanged)
 - (b) "Cosmetic medical procedure" includes the following:
 - (i)—(v) (text unchanged)
 - (vi) [Microdermabrasion] *Dermabrasion*;
 - (vii)—(ix) (text unchanged)
 - (6)—(7) (text unchanged)
 - (8) "*Dermabrasion*" means an abrasive process to remove epidermis and superficial dermis, resulting in a smoothing of contour irregularities.

[(8)] (9)—[(12)] (13) (text unchanged)

10.32.12 Delegation of Acts by a Licensed Physician to an Assistant Not Otherwise Authorized under the Health Occupations Article or the Education Article

Authority: Health General Article, §§19-114 and 19-118; Health Occupations Article, §14-306; Annotated Code of Maryland

10.32.12.02

.02 Definitions

- A. (text unchanged)
- B. Terms Defined.
 - (1)—(5) (text unchanged)
 - (6) "*Microdermabrasion*" means the use of a minimally invasive technique to gently exfoliate the dead, outermost layer of skin and is a method for improving superficial, environmental, aging, and hereditary skin changes by superficial, mechanically powered abrasion, often combined with application of topical crystals such as vitamin C.

[(6)] (7)—[(9)] (10) (text unchanged)

.04 Scope of Delegation.

- A.—C (text unchanged)
- D. At sites not included in Health-General Article, §§19-114 and 19-3B-01(b), Annotated Code of Maryland, when providing the following specified levels of supervision, a physician may delegate to an assistant technical acts which include but are not limited to:
 - (1) Without on-site supervision:

(a)—(g) (text unchanged);

(h) Providing sample packets of medication, selected by a physician who is physically present at the time of selection, to patients as directed by the delegating physician and in conformance with Health Occupations Article, §12-102(a), (d), and (f), Annotated Code of Maryland; [and]

(i) Preparing and administering oral drugs; *and*

(j) *Microdermabrasion*;

(2)—(6) (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene