

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-354)**

Overview and Legal and Fiscal Impact

The regulations correct outdated administration and program references in provisions relating to the Division of Reimbursements, health statistics, and other matters under the authority of the Department of Health and Mental Hygiene.

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:

Division of Reimbursements: Appeal Hearings to the Division of Reimbursements:
COMAR 10.02.03.01

Health Statistics: Release of Confidential Information in the Maternal and Child Bureau:
COMAR 10.03.02.01-.03

Health Facilities Grant: Construction Funds For Public and Nonprofit Community Mental
Health, Addiction, and Developmental Disabilities Facilities: COMAR 10.08.02.03

Maternal and Child Health: Morbidity, Mortality, and Quality Review Committee -
Pregnancy and Childhood: COMAR 10.11.06.05

Human Immunodeficiency Virus (HIV) Infection and Acquired Immunodeficiency
Syndrome (AIDS): HIV and CD4+ Investigations and Case Reporting:
COMAR 10.18.02.02, .03, and .08

AIDS Investigations and Case Reporting: COMAR 10.18.03.03 and .04

Preventive Medicine: Use of Tanning Devices by Minors: COMAR 10.52.06.12

Newborn Screening: COMAR 10.52.12.03, .07, and .08

Legal Analysis

Summary of Regulations

The regulations correct outdated administration and program references in provisions relating to the Division of Reimbursements, health statistics, health facilities grants, maternal and child health, Human Immunodeficiency Virus (HIV) Infection and Acquired Immunodeficiency Syndrome (AIDS), and preventive medicine. The regulations include updates to the following unit and program titles:

- *Public Health Services* is substituted for the former reference to the Community and Public Health Administration;
- the *Maternal and Child Health Bureau* is substituted for the former references to the Center for Maternal and Child Health and the Office for Genetics and Children with Special Health Care Needs;
- the *Behavioral Health Administration* is substituted for the former references to the Mental Hygiene Administration and the Alcohol and Drug Abuse Administration;
- the *Prevention and Health Promotion Administration* is substituted for the former references to the Local and Family Health Administration and the Community Health Administration;
- the *Infectious Disease Prevention and Health Services Bureau* is substituted for the former reference to the AIDS Administration;
- the *Environmental Health Bureau* is substituted for the former reference to the Environmental Health Coordination Program; and
- the *Early Hearing Detection and Intervention Program* is substituted for the former reference to the Universal Hearing Screening Program in the Office for Genetics and Children with Special Health Care Needs.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-102, 2-104(b), 2-207, 4-101, 4-102, 4-301 through 4-309, 13-109, 13-111, 13-601 through 13-605, 15-125, 18-102, 18-107, 18-201.1, 18-202.1, 18-205, 18-207, 18-215, 20-106, and 24-601 *et. seq.* of the Health – General Article as statutory authority for the regulations. More specifically, § 2-104(b) authorizes the Secretary of Health and Mental Hygiene to adopt regulations to carry out the provisions of law that are within the jurisdiction of the Secretary. Section 2-104(b) also requires the Secretary to review and revise the regulations of the department and each unit in the department that is authorized by law to adopt rules and regulations.

Section 2-207 of the Health – General Article provides a person who is aggrieved by a decision of the Secretary relating to eligibility for or participation in Medicaid with a right to an appeal to the Board of Review of the department. Section 4-102 states that certain confidential records assembled or obtained for research or study by the Secretary must remain in the custody and control of the Secretary or an agent or employee of the Secretary and generally may not be

disclosed to any person who is not engaged in the research or study project. The section then authorizes the use or publication of statistics, information, or other material that summarizes or refers to confidential records in the aggregate, without disclosing the identity of the person who is the subject of the confidential record. Sections 4-301 through 4-309 generally establish the confidentiality of medical records and the circumstances under which disclosure is authorized.

Section 13-109 of the Health – General Article requires the department to adopt regulations for the detection and management of hereditary and congenital disorders. Section 13-111 requires the department to establish a coordinated statewide system for screening all newborn infants in the State for certain hereditary and congenital disorders and to adopt regulations that set forth the standards and requirements for such newborn screening. Section 13-602 requires the Secretary to establish a program for the universal hearing screening of newborns and early identification and follow-up of infants who have, or who are at risk for developing, a permanent hearing status that affects speech-language skills. Section 13-604 requires the Secretary to develop a system to gather and maintain data relating to the early hearing detection and intervention program. Section 13-605 authorizes the department to adopt regulations to establish procedures for the reporting of hearing screening results by hospitals, birthing sites, and audiologists.

Section 18-102 of the Health – General Article requires the Secretary to adopt regulations necessary to prevent the introduction of an infectious or contagious disease into the State, as well as regulations necessary to prevent the spread of an infectious or contagious disease or other disease that endangers public health in the State. Section 18-207 requires a facility or office that orders a test for human immunodeficiency virus (HIV) and receives a test result that documents the presence of HIV to make available, upon the Secretary's request (or a request by an agent of the Secretary), the information necessary to compile an HIV/AIDS case report.

Section 20-106 of the Health – General Article prohibits an owner, employee, or operator of a tanning facility from allowing a minor from using a tanning device unless the minor's parent or legal guardian provides written consent. The section also authorizes the Secretary to adopt regulations to implement and carry out the provisions of law relating to use of tanning devices by minors.

Section 24-602 of the Health – General Article authorizes the Board of Public Works, upon recommendation of the Secretary, to make grants to qualified applicants for the construction, acquisition, renovation, and equipping of community mental health facilities, addiction facilities, and developmental disabilities facilities. Section 24-603 authorizes any county, municipal corporation, or nonprofit organization sponsoring a project involving the construction, acquisition, renovation, or equipping of a facility in the State to apply to the department for a State grant to be applied toward the cost of the project. Section 24-607 requires the department to adopt regulations to implement provisions of law relating to grants to community mental health, addiction, and developmental disabilities facilities.

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

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations make a series of updating and clarifying changes to correct administration and program references. The department advises that the regulations replace outdated administration and program name references with current names; therefore, there is 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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