

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-385)**

Overview and Legal and Fiscal Impact

The regulations authorize a psychiatric nurse practitioner to assent to involuntary admission of an individual into a mental health facility and make changes to related provisions to reflect the involvement of psychiatric nurse practitioners in the involuntary admissions process.

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:

Mental Hygiene Regulations: Involuntary Admission to Inpatient Mental Health Facilities:
COMAR 10.21.01.02, .04 and .08-.10

Legal Analysis

Background

Under laws allowing a parent or guardian of a minor to apply for voluntary admission of the minor to a facility for the treatment of a mental disorder, a facility is prohibited from admitting a minor for treatment of a mental disorder unless certain criteria are met. Before the enactment of Chapter 330 of 2015, the law required assent to the admission by the admitting physician of the facility or, for a child or adolescent unit of a State facility, by a physician and psychologist or by two physicians. Similarly, an application for involuntary admission (IVA) to a facility or Veterans' Administration hospital had to be accompanied by the certificates of one physician and one psychologist or of two physicians.

Chapter 330 of 2015 allowed for the assent to a voluntary admission and the certification for IVA to be given or signed by a physician and a psychiatric nurse practitioner. A certificate for IVA signed by a psychiatric nurse practitioner must be based on the personal examination of the psychiatric nurse practitioner.

Summary of Regulations

The regulations alter requirements for IVA to inpatient mental health facilities. Under the regulations, initiation of IVA requires the completion of a certificate by two physicians, one physician and one psychologist, or one physician and one psychiatric nurse practitioner. Regulations relating to the design of the certificate for IVAs, processes required for the completion of a certificate, the scheduling of an IVA hearing, and the conduct of IVA hearings are also modified to provide for certifications by psychiatric nurse practitioners.

In addition, the regulations authorize a psychiatric nurse practitioner to file a petition for emergency evaluation if the psychiatric nurse practitioner determines that an individual meets the requirements for IVA after an individual has been released from an inpatient facility by an administrative law judge.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 10-603, 10-613 through 10-617, 10-631 through 10-633, and 10-803 through 10-806 of the Health – General Article as statutory authority for the regulations. More specifically, § 10-615 requires that each application for IVA to a facility or Veterans' Administration hospital be accompanied by the certificates of one physician and one psychologist, two physicians, or one physician and one psychiatric nurse practitioner, and contain any other information that the Behavioral Health Administration requires. Section 10-616(a) requires a certificate for IVA to be based on the personal examination of the psychiatric nurse practitioner who signs the certificate and for the certificate to be in the form that the Secretary of Health and Mental Hygiene adopts by rule or regulation. The remaining cited authority is not relevant to these regulations.

Although not cited by the department, § 16-222 of the Health – General Article authorizes a psychiatric nurse practitioner to make a petition for emergency evaluation if the psychiatric nurse practitioner has reason to believe that an individual has a mental disorder and presents a danger to the life or safety of the individual or others.

With the addition of § 16-222 of the Health – General Article, the relevant cited 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 implement provisions of Chapter 330 of 2015, which authorized psychiatric nurse practitioners to fulfill specified requirements for the involuntary admission of an individual to a facility or Veterans' Administration hospital for the treatment of a mental disorder. The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs, consistent with the fiscal and policy note for Chapter 330 of 2015.

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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