MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	12/02/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/8/2016

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
10	21	01	02, .04 and .08-.10

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
Lisa Fassett

Telephone No.
410-402-8449

Email Address
lisa.fassett1@maryland.gov

6. Check applicable items:

_ New Regulations

X- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: September 16, 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 **X-** 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 Kathleen A. Morse, Assistant Attorney General, (telephone #410-767-1866) on October 27, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Van T. Mitchell

Title	**Telephone No.**
Secretary	410-767-6500

Date

December 1, 2015

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 21 MENTAL HYGIENE REGULATIONS
10.21.01 Involuntary Admission to Inpatient Mental Health Facilities

Authority: Health-General Article, §§10-603, 10-613—10-617, 10-631—10-633, and 10-803—10-806, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02, .04, and .08—10 under COMAR 10.21.01 Involuntary Admission to Inpatient Mental Health Facilities.

Statement of Purpose

The purpose of this action is to alter the individuals who may assent to the admission of a minor to a certain unit of a State facility for the treatment of a mental disorder by providing that assent may be given by a physician and psychiatric nurse practitioner; and to allow a physician and psychiatric nurse practitioner to sign a certain certificate to accompany an application for involuntary admission to a facility or Veteran's Administration hospital.

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 February 8, 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:
The bill does not directly affect governmental operations or finances.
F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
The regulations would not apply to any entity smaller than 50 employees. Small businesses would not be impacted.
G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 21 MENTAL HYGIENE REGULATIONS

10.21.01 Involuntary Admission to Inpatient Mental Health Facilities

Authority: Health-General Article, §§10-603, 10-613—10-617, 10-631—10-633, and 10-803—10-806, Annotated Code of Maryland

10.21.01.02 (downloaded 9/16/15)

.02 Definitions.
A. (text unchanged)
B. Terms Defined.
(1) "Administration" means the **[**Mental Hygiene**]** *Behavioral Health* Administration.
(2)—(25) (text unchanged)
(26) "Psychiatric nurse practitioner" means an individual licensed under Health-Occupations Article, Title 8, Annotated Code of Maryland, to practice nursing in this State as a certified registered nurse practitioner-psychiatric mental health (CRNP-PMH).
[(26**)]** *(27)***—[(**34)**]** *(35)* (text unchanged)

10.21.01.04

.04 Physician's [or], Psychologist's *or Psychiatric Nurse Practitioner's* Certificate for Involuntary Admission (IVA).

[A. In order to initiate the IVA of an individual, two physicians or one physician and one psychologist shall complete certificates to accompany an application for IVA completed under the provisions of Regulation .03 of this chapter.**]**

A. The following shall be submitted when initiating the IVA of an individual:

(1) An application for IVA completed under the provisions of Regulation .03 of this chapter; and

(2) A certificate completed by:

(a) Two physicians;

(b) One physician and one psychologist; or

(c) One physician and one psychiatric nurse practitioner.

B. The Secretary shall provide the certificate that includes the following:

(1)—(5) (text unchanged)

(6) Spaces for the following information:

(a) The name, address, and telephone number of the certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner*;

(b) (text unchanged)

(c) The date that the physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* examined the individual;

(d)—(f) (text unchanged)

(7) A statement of whether the individual who completes the certificate is a physician **[**or**]**,psychologist, *or psychiatric nurse practitioner*;

(8) (text unchanged)

(9) Space for the signature of the physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* and for the date and time the certificate is signed.

C. To complete a certificate for IVA, a physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* shall:

(1)—(4) (text unchanged)

D. (text unchanged)

10.21.01.08

.08 Schedule of IVA Hearings.

A.—B. (text unchanged)

C. Semiannual Hearing.

(1) (text unchanged)

(2) At least 7 days before the date a semiannual hearing is scheduled to take place:

(a) Two physicians or one physician and one psychologist *or one physician and one psychiatric nurse practitioner* shall complete certificates for IVA in accordance with the provisions of Regulation .04 of this chapter;

(b) (text unchanged)

(3) (text unchanged)

10.21.01.09

.09 Conduct of IVA Hearings.

A.—D. (text unchanged)

E. Testimony.

(1) The ALJ shall require the inpatient facility to provide for the testimony of one of the following, who has personally examined the individual within 48 hours before the hearing:

(a) (text unchanged)

(b) A physician in an accredited residency program in psychiatry if the physician in the residency program in psychiatry is under the supervision of the psychiatrist who is responsible for the treatment of the individual who is the subject of the hearing; **[**or**]**

(c) A psychologist*; or*

(d) A psychiatric nurse practitioner.

(2) Unless the inpatient facility demonstrates exceptional and compelling circumstances, the ALJ shall require the examining psychiatrist, physician in the residency program in psychiatry identified under §E(1)(b) of this regulation, **[**or**]** psychologist, *or psychiatric nurse practitioner* to testify in person at the hearing.

(3) If the ALJ determines that a certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* has not submitted adequate information with the certificate and that additional testimony from the certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* may materially assist the ALJ to make an informed decision, the ALJ may;

(a) Require the certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* to attend and testify at the hearing; or

(b) Receive the testimony of the certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* by telephone.

F.—G. (text unchanged)

10.21.01.10

.10 Evaluation Following ALJ Release.

If an individual is released from an inpatient facility by an ALJ under the provisions of Regulation .09G(3) of this chapter, and the individual's treating physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* determines, based on the individual's behavior and clinical condition after the hearing, that the individual meets the requirements for IVA outlined in Health-General Article, §10-617, Annotated Code of Maryland, and Regulation .04C(4)(c)(i)—(v) of this chapter:

A. After the individual has been given the opportunity to leave the inpatient facility, the treating physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* may file a petition for emergency evaluation as the means of initiating an emergency psychiatric evaluation; and

B. (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene