

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	07/27/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 9/2/2016**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

10	57	01	01
10	57	02	01—.06, and .08—.10
10	57	03	01, .02, and .05—.07

**3. Name of Promulgating Authority**

Department of Health and Mental Hygiene

**4. Name of Regulations Coordinator Telephone Number**  
Michele Phinney 410-767-5623

**Mailing Address**

201 W. Preston Street

<b>City</b>	<b>State</b>	<b>Zip Code</b>
Baltimore	MD	21201

**Email**  
michele.phinney@maryland.gov

**5. Name of Person to Call About this Document Telephone No.**  
Kristen Neville 410-764-5978

**Email Address**  
kristen.neville@maryland.gov

**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: June 10 and 13, 2016.

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 General Provisions Article, §3-302(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 Anthony DeFranco, Assistant Attorney General, (telephone #410-767-6935) on June 22, 2016. 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**

July 26, 2016

**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**  
**Subtitle 57 BOARD FOR THE CERTIFICATION OF RESIDENTIAL CHILD**  
**CARE PROGRAM PROFESSIONALS**

**10.57.01 Definitions**

**Subtitle 57 BOARD FOR THE CERTIFICATION OF RESIDENTIAL CHILD**  
**CARE PROGRAM PROFESSIONALS**

**10.57.02 Certification – Residential Child Care Program Administrators**

**Subtitle 57 BOARD FOR THE CERTIFICATION OF RESIDENTIAL CHILD**  
**CARE PROGRAM PROFESSIONALS**

**10.57.03 Certification – Residential Child and Youth Care Practitioners**

Authority: See attached

**Notice of Proposed Action**

[]

The Secretary of Health and Mental Hygiene proposes to :

- 1) Amend Regulation .01 under COMAR 10.57.01 Definitions;
- 2) Amend Regulations .01—.06, and .08, repeal Regulation .09, and recodify Regulation .10 to be Regulation .09 under COMAR 10.57.02 Certification – Residential Child Care Program Administrators; and
- 3) Amend Regulations .01, .02, and .05—.07 under COMAR 10.57.03 Certification – Residential Child and Youth Care Practitioners.

This action was considered at a public meeting on June 10, 2016, notice of which was given by publication on the Board's website at

<http://dhmh.maryland.gov/crccp/Pages/Index.aspx>, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to :

- (1) Implement the changes to the statute as required by Chapter 331 of 2015 (SB 201), State Board for the Certification of Residential Child Care Program Professionals – Revisions);
- (2) Require applicants for certification as a program administrator to submit to the Board independent written verification from an employer describing the nature and direction of the applicant's experience in the human services field instead of three professional references attesting to the applicant's experience and competence as a program administrator;
- (3) Repeal the requirement, for lack of statutory authority, that an applicant for certification shall demonstrate proof of proficiency in English;
- (4) Repeal the requirement that the Board shall review all completed applications to the extent practicable within 120 days on receipt of the completed application, may delegate the initial review to a committee of the Board, and at its next regular meeting, may

approve or deny an application reviewed by the Board in order to clarify the application review process;

(5) Repeal requirements regarding program administrators who serve as administrator of two residential child care programs because this is not within the Board's purview to regulate;

(6) Require the Board to send a renewal notice to a certificate holder at least 1 month before the certificate expires either by postal mail or by electronic means.

### **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 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2017

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:

This proposal is not changing a fee or imposing new fiscal burdens on certificate holders, but merely updating the regulations to conform to the statute changes that became effective in 2015.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

. It is incumbent upon an individual applicant or certificate holder to follow the Board regulations as it relates to applying for certification, obtaining a criminal history records check or child protective services background clearance, etc., not upon a small business.

G. Small Business Worksheet:

Attached Document:

---

## Title 10

# DEPARTMENT OF HEALTH AND MENTAL HYGIENE

### Subtitle 57 BOARD FOR THE CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM PROFESSIONALS

#### **10.57.01 Definitions.**

Authority: Health Occupations Article, §§20–101 and 20–205, Annotated Code of Maryland

*10.57.01.01 (downloaded 6/10/2016)*

##### **.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) “*Central Repository*” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

[(5)] (6)—[(7)] (8) (text unchanged)

(9) “*Chief Administrator*” means the individual, regardless of title, who is appointed by the governing body of a residential child care program as having the responsibility for the overall administration of the program.

(10) “*Child protective services background clearance*” means a search by a local department of social services of a central registry established under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland, for information about child abuse and neglect investigations relating to an individual.

[(8)] (11)—[(19)] (22) (text unchanged)

[(20)] “*Practitioner-in-training (PIT)*” means an individual approved by the Board to practice as a restricted residential child and youth care practitioner.

(21) “*Provisional residential child and youth care practitioner*” means an individual approved by the Board to practice as a restricted residential child and youth care practitioner for 180 days.]

[(22)] (23)—[(34)] (35) (text unchanged)

#### **10.57.02. Certification – Residential Child Care Program Administrators**

Authority: Health Occupations Article, §§20–205, 20–301, and 20–302, 20–303, 20–305—20–307, 20–310, 20–311, and 20–404, Annotated Code of Maryland

*10.57.02.01 (downloaded 6/13/2016)*

##### **.01 Application Procedures.**

A. In order to obtain a certificate as a residential child care program administrator, the applicant shall submit to the Board:

(1)—(2) (text unchanged)

(3) [Three professional references from individuals attesting to the applicant's work experience and competence as a program administrator] *Independent written verification from the applicant's employer or employers describing the nature and duration of the applicant's experience in the human service field;*

(4) (text unchanged)

(5) Evidence that the applicant:

(a) (text unchanged)

(b) Has completed a State *and national* criminal history records check;

(c) *Unless waived in accordance with Health Occupations Article, §20–303(d), Annotated Code of Maryland, has submitted to a child protective services background clearance;*

[ (c) ] (d)—[ (e) ] (f) (text unchanged)

B. [Professional References] *Experience Required in [§A(2)] §A(3) of this Regulation.*

(1) At least one [professional reference] *employment verification* under [§A(2)] §A(3) of this regulation shall be provided by a present or former supervisor.

(2) For individuals who are in a leadership role of a residential child care program and do not have a supervisor, a [professional reference] *employment verification* from the program's [Board of Directors] *Chief Administrator or other appropriate program authority* is sufficient to meet this requirement.

(3) [Professional references] *Employment verification* shall be submitted to the Board:

(a)—(b) (text unchanged)

C. Day-to-day management and operation of a residential child care program required in [§A(3)(e)] §A(5)(f) of this regulation includes, but is not limited to:

(1)—(7) (text unchanged)

D.—E. (text unchanged)

#### **.02 Academic and Experience Requirements.**

A. (text unchanged)

B. Supervisory or Administrative Capacity Required in §A of this regulation.

(1)—(2) (text unchanged)

(3) Experience shall be obtained within [the last] 10 years [and substantiated by a professional reference] *before the application date.*

[C. English-Language Proficiency. An applicant shall demonstrate proof of proficiency in the written and oral communication of the English language providing documentary evidence that:

(1) The applicant has completed at least 60 classroom credits from an English-speaking undergraduate school or English-speaking graduate school; or

(2) The applicant has achieved a passing score on the Test of English as a Foreign Language (TOEFL).

D. Proof of proficiency in English language does not apply to an individual who was in possession of a valid Maryland residential child care program administrator certificate by July 1, 2009, or had applied by that date and subsequently met all requirements for certification.]

[E.] C. (text unchanged)

#### **.03 Examination Procedures.**

A.—C. (text unchanged)

D. Waiver of Examination. The Board may waive the examination requirement for an applicant who:

(1)—(2) (text unchanged)

(3) Provides adequate evidence that:

(a) (text unchanged)

(b) The applicant qualified for a certificate in the other state by passing an examination given in that or any other state; [and]

(c) The applicant has completed a State and national criminal history records check; *and*

(d) *Unless waived by the Board in accordance with Health Occupations Article, §20–303(d), Annotated Code of Maryland, the applicant has submitted to a child protective services background clearance.*

E. Reexamination.

(1)—(2) (text unchanged)

(3) An applicant may request [and be granted or denied] a waiver of the 6-month waiting period after failure of the third examination upon proof of exceptional circumstances.

F. (text unchanged)

#### **.04 Action on Application.**

[A. The Board shall review all completed applications to the extent practicable within 120 days of receipt of the completed application.

B. The Board may delegate the initial review of applications to a committee of the Board.

C. At the next regular meeting of the Board, the Board may approve or deny an application reviewed by the Board or its designee.]

[D.] A. Upon review of [an] *a completed* application, the Board shall do one of the following:

(1)—(2) (text unchanged)

(3) Notify the applicant that the applicant is qualified to take the examination [and require the applicant to take an examination].

[E.] B. (text unchanged)

[F.] C. Issuance of Certificate.

(1) (text unchanged)

(2) The Board shall include on each certificate the:

(a) Full name of the certificate holder; *and*

(b) Serial number assigned by the Board[; and]

[(c) Signature of the Chairman of the Board, under the seal of the Board].

#### **.05 Expiration and Renewal.**

A. (text unchanged)

B. At least [3 months] *1 month* before the certificate expires, the Board shall send to the certified program administrator, by *electronic means or* first class mail to the last known *electronic or physical* address, a renewal notice that states:

(1)—(3) (text unchanged)

C. The Board shall renew the certificate of a certified program administrator who:

(1)—(2) (text unchanged)

(3) Submits to the Board:

(a) A renewal application on a form that the Board requires; [and]

(b) (text unchanged)

*(c) Unless waived by the Board in accordance with Health Occupations Article, §20-310(f), Annotated Code of Maryland, evidence of application for a child protective services background clearance; and*

*(d) Evidence of having submitted to a State and national criminal history records check conducted by the Central Repository.*

#### **.06 Reinstatement.**

A. The Board shall reinstate the certificate of a program administrator who has failed to renew the certificate for any reason, if the individual:

(1)—(3) (text unchanged)

(4) Submits to the Board:

(a) (text unchanged)

(b) [Adequate evidence that the applicant has completed a State and national criminal background check]

*Provides evidence of having submitted to a State and national criminal history records check conducted by the Central Repository; and*

*(c) Unless waived by the Board in accordance with Health Occupations Article, §20-311(c), Annotated Code of Maryland, provides evidence of application for a child protective services background clearance; and*

(5) (text unchanged)

B. (text unchanged)

#### **.08 Resignation, Removal, or Death of a Program Administrator.**

A. If a program administrator resigns or is removed from a position as a program administrator by death or for any other unexpected cause, the residential child care program's [Board of Directors] *Chief Administrator or other appropriate program authority* shall immediately designate a certified program administrator to serve in that capacity.

B. In the event a certified program administrator is not available, the residential child care program's [Board of Directors] *Chief Administrator or other appropriate program authority* may appoint a noncertified individual to serve in the capacity of acting program administrator for a period not exceeding [180] *90* days if the individual:

(1) Is approved [from] *by* the Board; and

(2) (text unchanged)

C. Approval of Noncertified Individual to Serve as Acting Program Administrator.

(1) In order to obtain approval from the Board for the approval of a noncertified individual to serve as the acting program administrator, the residential child care program's [Board of Directors] *Chief Administrator or other appropriate program authority* shall immediately submit to the Board:

(a)—(b) (text unchanged)

(c) Written justification clarifying the reason why acting capacity is necessary, that includes:

(i)—(ii) (text unchanged)

(iii) A summary of the efforts made by the residential child care program to recruit a certified program administrator; [and]

(d) A copy of the individual's resume or curriculum vitae; *and*

(e) *The State and national criminal history records check.*

(2)—(3) (text unchanged)

(4) The [180] 90 day period begins on the date that the program administrator leaves or is removed from the position as a program administrator.

(5) The Board may extend the [180] 90 day period for a further period of not more than 30 days.

[(6) The Board shall review all requests for the appointment of non-certified program administrators to the extent practicable at the next regularly scheduled Board meeting.]

#### **10.57.02.10**

[.10] .09 (text unchanged)

### **10.57.03. Certification – Residential Child and Youth Care Practitioners**

Authority: Health Occupations Article, §§20–205, 20–301, 20–302.1, 20–303, 20–305, 20–307, 20–310, and 20–311 Annotated Code of Maryland

#### **10.57.03.01 (downloaded 6/10/2016)**

##### **.01 Application Procedures.**

A. In order to obtain a certificate as a residential child and youth care practitioner, the applicant shall submit to the Board:

(1)—(2) (text unchanged)

(3) Evidence the applicant:

(a)—(b) (text unchanged)

(c) Has completed a State and national criminal history records check; [and]

(d) *Unless waived by the Board in accordance with Health Occupations Article, §20–303(d), Annotated Code of Maryland, a child protective services background clearance; and*

[(d)] (e) Has completed the process for certification under one of the tiers outlined in Regulation [.13] .10 of this chapter.

B.—D. (text unchanged)

##### **.02 Academic and Experience.**

A. Academic Experience. For certification as a certified residential child and youth care practitioner, an applicant shall submit a certified copy of transcripts with school seals to document the following to the Board:

(1) Receipt of a high school diploma or equivalent; [and]

(2) [Either:] *Evidence of at least 2 years experience in the health and human services field; and*

(3) *Either:*

(a) Successful completion of an approved residential and youth care practitioner training program; or

(b) Receipt of an associate's or bachelor's degree from an accredited college or university.

[B. English-Language Proficiency. An applicant shall demonstrate proof of proficiency in the written and oral communication of the English language providing documentary evidence that:

(1) The applicant has graduated from an English-speaking:

(a) High school;

(b) Professional school; or

(c) Undergraduate school; and

(2) The applicant has achieved a passing score on the Test of English as a Foreign Language (TOEFL).]

[C.] B. (text unchanged)

##### **.05 Action on Application.**

[A. The Board shall review all completed applications to the extent practicable within 120 days of receipt of the completed application.

B. The Board may delegate the initial review of applications to a committee of the Board.

C. At the next regular meeting of the Board, the Board may approve or deny an application reviewed by the Board or its designee.]

[D.] A. Upon review of [an] *a completed* application, the Board shall do one of the following:

(1) (text unchanged)

(2) Notify the applicant that the applicant is qualified to take the examination [and require the applicant to take an examination].

[E.] B. Denial of Applications.

(1) (text unchanged)

(2) If the Board denies certification under [§E(1)(e) or (f)] *§B(1)(e) or (f)* of this regulation, the Board or the Board's designee shall:

(a)—(b) (text unchanged)

(3) (text unchanged)

[F.] C. Issuance of Certificate.

- (1) (text unchanged)
- (2) The Board shall include on each certificate the:
  - (a) Full name of the certificate holder; *and*
  - (b) Serial number assigned by the Board[; and]
  - (c) Signature of the Chairman of the Board, under the seal of the Board].

**.06 Expiration and Renewal.**

- A. (text unchanged)
- B. At least [3 months] *1 month* before the certificate expires, the Board shall send to the certified residential child and youth care practitioner *by electronic or first class mail to the last known electronic or physical address* a renewal notice that states:
  - (1)—(3) (text unchanged)
- C. The Board shall renew the certificate of a certified residential child and youth care practitioner who:
  - (1)—(2) (text unchanged)
  - (3) Submits to the Board:
    - (a) A renewal application on a form that the Board requires; [and]
    - (b) Satisfactory evidence of compliance with any continuing education and other qualifications and requirements set by the Board;
      - (c) *Unless waived by the Board in accordance with Health Occupations Article, §20-310(f), Annotated Code of Maryland, evidence of application for a child protective services background clearance; and*
      - (d) *Evidence of having submitted to a State and national criminal history records check conducted by the Central Repository.*

**.07 Reinstatement.**

- A. The Board shall reinstate the certificate of a residential child and youth care practitioner who has failed to renew the certificate for any reason, if the individual:
  - (1)—(2) (text unchanged)
  - (3) Submits to the Board:
    - (a) Evidence of completion of 20 continuing education units within the last 2 years; [and]
    - (b) [Adequate evidence that the applicant has completed a State and national criminal background check] *Evidence of having submitted to a State and national criminal history records check conducted by the Central Repository; and*
    - (c) *Unless waived by the Board in accordance with Health Occupations Article, §20-311(c), Annotated Code of Maryland, evidence of application for a child protective services background clearance; and*
  - (4) (text unchanged)
- B. (text unchanged)

**VAN T. MITCHELL**

**Secretary of Health and Mental Hygiene**