

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	08/10/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 9/16/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

10 21 01 02, .04, .08, and .09

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

City State Zip Code
Baltimore MD 21201

Email
michele.phinney@maryland.gov

5. Name of Person to Call About this Document Telephone No.
Lisa Fassett 410-402-8449

Email Address
lisa.fassett1@maryland.gov

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, §§7.5-204—7.5-205, [10-613, 10-614,] 10-616, [10-617, 10-631—10-633, and 10-803—10-806] 10-619, and 10-806(d)(3), Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Health and Mental Hygiene proposes to to amend Regulations .02, .04, .08, and .09 under COMAR 10.21.01 Involuntary Admission to Inpatient Mental Health Facilities.

Statement of Purpose

The purpose of this action is to update existing requirements for involuntary admission signed by physicians and psychologists to certificates for involuntary admission signed by psychiatric nurse practitioners in accordance with Chapter 241, Acts of 2016 (Senate Bill 1081).

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, or fax to 410-767-6483. Comments will be accepted through October 17, 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:
The proposal does not directly affect governmental operations or finances. The proposal clarifies a procedural change that should not negatively impact affected industries or trade groups, and should not have a direct or indirect effect on the public.
- 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:

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10.21.01.02 (07/14/2016)

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
- (1)—(23) (text unchanged)
- (24) "Physician's [or], psychologist's, or psychiatric nurse practitioner's certificate" means the certificate completed according to the provisions of Health-General Article, §§10-616—10-617, Annotated Code of Maryland.
- (25)—(35) (text unchanged)

10.21.01.04 (05/12/2016)

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

- A. (text unchanged)
- B. The Secretary shall provide the certificate that includes the following:
 - (1)—(3) (text unchanged)
 - (4) A statement that the certificate may not be used for the IVA of an individual if the examination on which the certificate is based was done:
 - (a) (text unchanged)
 - (b) More than 30 days before the inpatient facility *or the Veteran's Administration hospital* receives the application for admission;
 - (5)—(7) (text unchanged)
 - (8) The statement that the physician, [or] psychologist, *or psychiatric nurse practitioner*:
 - (a)—(b) (text unchanged)
 - (9) (text unchanged)
- C.—D. (text unchanged)

10.21.01.08

.08 Schedule of IVA Hearings.

- A. (text unchanged)
- B. Change of Status Hearing.
 - (1) (text unchanged)
 - (2) Two physicians or one physician and one psychologist *or one physician and one psychiatric nurse practitioner* shall evaluate the individual and, if the individual meets the requirements for IVA outlined in Health-General Article, §10-617, Annotated Code of Maryland, and Regulation .04C(4)(c) of this chapter, shall submit an application for IVA of the individual in accordance with the provisions of Regulation .03 of this chapter and complete certificates for IVA in accordance with the provisions of Regulation .04 of this chapter:
 - (a)—(d) (text unchanged)
 - (3)—(4) (text unchanged)
- C. (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)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene

