



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

Memorandum

To: Members of the AELR Committee
Standing Committee Chairs

From: George H. Butler, Jr., AELR Committee Counsel
Kathryn H. Selle, AELR Committee Counsel
Nathan W. McCurdy, AELR Committee Counsel

Date: May 17, 2019

Re: **Synopses of Regulations received from 5/3/2019 through 5/16/2019**

Enclosed please find synopses of regulations received by the Joint Committee on Administrative, Executive, and Legislative Review (AELR) during the weeks noted above.

The Office of Policy Analysis prepares analyses of the regulations to determine if there are any problem areas, to ensure that the regulations comply with statutory authority and legislative intent, and to assess the fiscal impact of the regulations. If any regulation is of particular interest to you, please feel free to contact us at 410-946-5350 and we will supply you with a copy of the regulation along with the legal and fiscal analysis.

/cr

cc: Jake Weissmann
Alexandra M. Hughes

Labor, Licensing and Regulation, Department of

Proposed Regulation

DLS Control No. 19-062

Department of Labor, Licensing, and Regulation:

Elevator Safety Review Board:

Qualifications: COMAR 09.35.02.04 through .06

According to the department, the purpose of this action is to:

- provide the licensing requirements for application for a temporary elevator mechanic license,
- specify who may be considered for a temporary elevator mechanic license,
- specify which out-of-state individuals must submit to qualify for a temporary elevator mechanic license,
- specify when renewal of temporary elevator mechanic license is permissible, and
- specify when the board may refuse to renew the temporary license.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 19-057

Department of Natural Resources:

Fisheries Service:

Fish Refuges: COMAR 08.02.17.01

According to the department, the purpose of this action is to remove the designation of Gumtree Cove, located in Nanjemoy River, as a fish refuge. Removing the designation will increase fishing access and opportunities in Nanjemoy River. This idea is supported by the Black Bass Advisory Subcommittee.

There was a time when Gumtree Cove was considered a valuable place for spawning by largemouth bass because of the atypical development of a temporary bed of submerged aquatic vegetation. A fish refuge was established at Gumtree Cove in Nanjemoy River to protect largemouth bass during the spawning season (March 1 through June 15). The intended outcome was to create a more productive black bass fishery in the area.

As the bed of submerged aquatic vegetation naturally declined in size, the use of the cove by largemouth bass also declined. Unfortunately, after many surveys by the department, no largemouth bass have been collected during the spring spawning season in that area. Attempts have been made to improve the refuge by using artificial structures, but have not resulted in increased use of Gumtree Cove. Therefore, retaining Gumtree Cove as a refuge for largemouth bass is no longer meaningful as a means of creating or sustaining a more productive black bass fishery.

Proposed Regulations

DLS Control No. 19-058

Department of Natural Resources:

Fisheries Service:

Fish: COMAR 08.02.05.02

Gear: COMAR 08.02.25.08

According to the department, the purpose of this action is to remove an antiquated requirement for sealing haul seines and establish the notification procedure for commercially fishing with haul seines on the weekend.

Proposed Regulation

DLS Control No. 19-059

Department of Natural Resources:

Fisheries Service:

Oysters: COMAR 08.02.04.14

According to the department, the purpose of this action is to clarify that a person may not harvest oysters in a harvest reserve area when it is not open. There is not currently a statement in regulation that specifically says that a person cannot harvest in a harvest reserve area if it is not open. Harvest reserve areas are areas reserved on a rotational basis for restoration and restricted harvest and are managed by regulation and public notice. When the harvest reserve areas were established in 2003 it is clear that the intention was to keep the areas closed and prohibit harvest until the oysters were able to be harvested. Since the intention is for the areas to be closed, planted with oyster seed and occasionally opened for harvest, this action specifically prohibits harvest in those areas unless they are specifically opened.

Proposed Regulation

DLS Control No. 19-060

Department of Natural Resources:

Forest and Parks:

Licensed Tree Experts: COMAR 08.07.07.02

According to the department, the purpose of this action is to adopt certain prior industry standards for pruning as the applicable tree care practice in the State.

Transportation, Department of

Evaluation Report

DLS Control No. 19-061

Department of Transportation:

Motor Vehicle Administration – Motorcycle Safety Program: COMAR 11.20

Motor Vehicle Administration – Commercial Motor Vehicles: COMAR 11.21

Motor Vehicle Administration – Preventive Maintenance Program: COMAR 11.22

Motor Vehicle Administration – Drivers’ Schools, Instructors, and Driver Education Program: COMAR 11.23

Evaluation Report submitted for review by the Joint Committee on Administrative, Executive, and Legislative Review under the Regulatory Review and Evaluation Act.

Maryland Department of Health

Proposed Regulations

DLS Control No. 19-046

Maryland Department of Health:

Medical Care Programs:

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services:
COMAR 10.09.23.01-1, .02, and .05

According to the department, the purpose of this action is to:

- update the Audiology, Physical Therapy, and Early Periodic, Screening, Diagnosis, and Treatment (EPSDT) Provider Manual incorporated by reference;
- remove a restriction on individuals who may conduct assessments of a child’s home for lead hazards; and
- clarify an existing limitation that the program does not cover the laboratory analysis of any samples taken from a dwelling.

Proposed Regulation

DLS Control No. 19-047

Maryland Department of Health:

Medical Care Programs:

Maryland Medicaid Managed Care Program: Managed Care Organizations:
COMAR 10.09.65.19

According to the department, the purpose of this action is to implement the calendar year 2019 HealthChoice Managed Care Organization capitation rates.

Proposed Regulations

DLS Control No. 19-048

Maryland Department of Health:

Medical Care Programs:

Telehealth Services: COMAR 10.09.49.02, .03, .04, .05, .07, .10, and .11

According to the department, the purpose of this action is to allow any and all provider types to receive reimbursement for services rendered via telehealth if the provider's professional licensing board includes telehealth in its scope of practice. Additionally, this proposal aligns the delivery of telehealth services to that of services delivered in-person by removing the telehealth transmission fee that functions as an enhanced reimbursement for services delivered.

Proposed Regulations

DLS Control No. 19-049

Maryland Department of Health:

Medical Care Programs:

1915(i) Intensive Behavioral Health Services for Children, Youth, and Families:

COMAR 10.09.89.01 through .03, .05, .09, .11, and .13 through .15

Mental Health Case Management: Care Coordination for Children and Youth:

COMAR 10.09.90.02, .03, .07, .09, .12, and .13

According to the department, the purpose of this action is to update regulations governing 1915(i) and case management services to coincide with the department's 1915(i) waiver renewal submission. Specifically, the proposed actions improve and expand eligibility criteria to meet the original utilization goal of the 1915(i) waiver, remove specific supplemental services from the 1915(i) program to align with actual practice in Maryland, and update terminology to reflect current practice.

Proposed Regulations

DLS Control No. 19-050

Maryland Department of Health:

Medical Care Programs:

Maryland Medicaid Managed Care Program: Definitions: COMAR 10.09.62.01

Maryland Medicaid Managed Care Program: Benefits: COMAR 10.09.67.24

According to the department, the purpose of this action is to implement the National Diabetes Prevention Program (National DPP), an evidence-based diabetes prevention program established by the Centers for Disease Control and Prevention (CDC), beginning July 2019.

Proposed Regulations

DLS Control No. 19-051

Maryland Department of Health:

Board of Physicians:

General Licensure Regulations: COMAR 10.32.01.02 and .06

Physician License by Conceded Eminence: COMAR 10.32.13.02

According to the department, the purpose of this action is to define “Post-graduate training” in the definition sections of the General Licensure and Conceded Eminence regulations and make clarifying and non-substantive amendments to the General Licensure regulations. “Post-graduate training” needs to be defined to distinguish it from clinical training so that applicants are clear on licensing requirements.

Proposed Regulations

DLS Control No. 19-052

Maryland Department of Health:

Food:

Food Service Facilities: COMAR 10.15.03.02, .06, .09, .15, .25, .27, and .40

According to the department, the purpose of this action is to conform regulations to changes made to cottage food businesses and micro markets by House Bill 1087/Senate Bill 758 and House Bill 1106 (respectively), passed during the 2018 General Assembly session. The proposed action amends definitions related to cottage foods and micro markets, adds new methods for the sale of cottage foods, and promulgates a new regulation related to the requirements of micro markets.

This proposal also makes several corrections, clarifications, and deletions of obsolete text. These include conforming storage temperature requirements for crab meat to COMAR 10.15.02; specifying food disposal or reconditioning procedures; clarifying thawing procedures for potentially hazardous foods; and allowing for outdoor cooking at mobile food service facilities.

Proposed Regulation

DLS Control No. 19-053

Maryland Department of Health:

Food:

Shellfish Sanitation: COMAR 10.15.07.01

According to the department, the purpose of this action is to update to the most recent revision of the incorporation by reference of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

Higher Education Commission, Maryland

Proposed Regulations

DLS Control No. 19-055

Maryland Higher Education Commission:

Academic Regulations:

Academic Programs – Degree-Granting Institutions: COMAR 13B.02.03.02 and .24

General Education and Transfer: Public Institutions of Higher Education:

COMAR 13B.06.01.04

Requirements for Articulation Agreements: COMAR 13B.06.02.01

According to the commission, the purpose of this action is to:

- under 13B.02.03, define the term “articulation agreement,” and alter certain degree and articulation requirements, including requirements for Bachelor of Technical Studies and Bachelor of Professional Studies programs;
- under 13B.06.01, amend certain requirements related to the transfer of educational credit from one institution to another; and
- under 13B.06.02, provide for requirements of articulation agreements.

Insurance Administration, Maryland

Proposed Regulation

DLS Control No. 19-054

Maryland Insurance Administration:

Life Insurance and Annuities:

Contracts on a Variable Basis: COMAR 31.09.04.03

According to the administration, the purpose of this action is to amend Regulation .03 under COMAR 31.09.04 (Contracts on a Variable Basis). Several changes were published as proposed to this regulation in the Maryland Register. After publication, it came to the administration’s attention that there was an error in Regulation .03A(2). At the very end of the regulation, the phrase “and annuity contracts” was added to the regulation; however, the Maryland Insurance Commissioner does not license producers who sell annuity contracts. Therefore, this reproposal removes the words “and annuity contracts” from this section.

Education, State Board of

Proposed Regulation

DLS Control No. 19-056

State Board of Education:

Specific Subjects:

Program in Mathematics: COMAR 13A.04.12.02

According to the board, the purpose of this action is to define the process that local school systems can use to demonstrate evidence of alignment of curriculum to Maryland College and Career Ready Standards.