



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: September 20, 2019

Re: **Synopses of Regulations received from 9/6/2019 through 9/19/2019**

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

General Services, Department of

Proposed Regulation

DLS Control No. 19-173

Department of General Services:

Office of the Secretary:

Public-Private Partnership Program: COMAR 04.01.05.01 through .09

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

- promulgate regulations and establish a Department of General Services Public-Private Partnership Program to enhance the State's non-transit public infrastructure assets and
- describe and provide a process for the development, solicitation, evaluation, award and delivery of Public-Private Partnerships that provides the greatest amount of flexibility, innovative design, transparency and accountability to the department's program.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 19-174

Department of Natural Resources:

Forest and Parks:

Use of State Parks: COMAR 08.07.06.02

According to the department, the purpose of this action is to add three State Park units to ensure an accurate list of all current State Park land units. The three land units are: Bohemia River Natural Resources Management Area (Cecil County), Sang Run State Park (Garrett County), and Wolf Den Run State Park (Garrett County).

Proposed Regulation

DLS Control No. 19-176

Department of Natural Resources:

Fisheries Service:

Fish: COMAR 08.02.05.15

According to the department, the purpose of this action is to correct the minimum size for the commercial black drum fishery in the Atlantic Ocean. When the commercial fishery for the Chesapeake Bay was opened in early 2019 the regulation was reorganized. The 16 inch minimum size for the Atlantic Ocean black drum commercial fishery was inadvertently deleted when the regulation was reorganized. The 16 inch minimum size limit for that fishery has been in place since the adoption of black drum regulations in 1994. The Department, to be in compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for

Black Drum, must re-establish the minimum size limit. The proposed action requires a black drum harvested from the waters of the Atlantic Ocean be a minimum of 16 inches in length.

Technology Development Corporation, Maryland

Proposed Regulations

DLS Control No. 19-172

Independent Agencies:

Maryland Technology Development Corporation:

Definitions: COMAR 14.04.01.01

Investment Programs: COMAR 14.04.02.01 through .09

Builder Fund: COMAR 14.04.03.01 through .06

Rural Business Innovation Initiative: COMAR 14.04.04.01 through .06

Seed Funds: COMAR 14.04.05.01 through .07

Maryland Venture Fund: COMAR 14.04.06.01 through .07

Investment Committee: COMAR 14.04.07.01 through .04

Stem Cell Research Commission: COMAR 14.04.08.01 through .11

According to the commission, the purpose of this action is to adopt regulations that prescribe the policies and procedures applicable to all investment programs of Maryland Technology Development Corporation. The regulations are being adopted in accordance with Chapter 488 of 2019. Specifically, Chapter 488 requires the corporation to establish in regulations an investment committee of the Board of Directors of the Corporation to evaluate and determine whether the corporation may invest in a business that will have a substantial economic impact in the State even though that business does not satisfy the requirements as to workforce or principal business operations in the State otherwise required by law. The regulations governing the investment committee are required to include the responsibilities of the investment committee and procedures for the appointment of the committee members from the Corporation's Board of Directors. With respect to the corporation's investment programs, Chapter 488 requires regulations covering the types of businesses in which the corporation may invest, the basic standards a business must meet for the corporation's investment, the amount of money available for investment, and the investment policy which describes the criteria, investment philosophy, and guidelines for the corporation's decision making process with respect to investments. Because the mandate applies to all of the corporation's investment programs, the corporation proposes both general regulations applicable to all of its investment programs as well as supplemental provisions tailored to specific programs. Chapter 488 also requires the regulations to set forth a process for considering whether investments help to foster inclusive and diverse entrepreneurship in the State. Finally, this action recodifies without change the current regulations governing the Stem Cell Research Commission.

Maryland Department of Health

Proposed Regulation

DLS Control No. 19-161

Maryland Department of Health:

Board of Morticians and Funeral Directors:

Inspection of Funeral Establishments and Funeral Service Businesses:

COMAR 10.29.03.01 through .06

According to the department, the purpose of this action is to update and clarify best practices to align with industry standards within the profession.

Proposed Regulations

DLS Control No. 19-162

Maryland Department of Health:

Board of Morticians and Funeral Directors:

Examination: COMAR 10.29.02.04

Continuing Education: COMAR 10.29.05.05

Requirements for Apprenticeship: COMAR 10.29.09.03 and .04

Crematories – Permit, Licensing, and Fees: COMAR 10.29.17.04

Crematories – Inspections, Complaints, Investigations, Grounds for Discipline, and

Penalties: COMAR 10.29.18.02

According to the department, the purpose of this action is to amend obsolete provisions and make clarifying changes.

Proposed Regulation

DLS Control No. 19-164

Maryland Department of Health:

Cancer Control:

Reimbursement for Breast and Cervical Cancer Diagnosis and Treatment:

COMAR 10.14.02.01 through .04, .04-1, .04-2, .05 through .07, .09, .10, .12 through .22

According to the department, the purpose of this action is to add physician assistants and certified nurse midwives to the list of providers that may be reimbursed by the Breast and Cervical Cancer Diagnosis and Treatment Program (Program) under this chapter, update outdated references and definitions, and make clarifying changes throughout.

Proposed Regulations

DLS Control No. 19-165

Maryland Department of Health:

Medical Care Programs:

Psychiatric Residential Treatment Facility (PRTF) Demonstration Waiver:

COMAR 10.09.79.01 and .03

According to the department, the purpose of this action is to clarify requirements for eligibility workers completing presumptive eligibility applications for individuals in correctional facilities.

Proposed Regulations

DLS Control No. 19-166

Maryland Department of Health:

Medical Care Programs:

Nursing Facility Services: COMAR 10.09.10.07, .08, and .30

According to the department, the purpose of this action is to implement a 3% rate increase for nursing facility services in accordance with the State's budget for Fiscal Year 2020. In addition, the geographic regions used to calculate nursing service rates will be revised and the Interim Working Capital Fund will be extended for one year.

Proposed Regulations

DLS Control No. 19-167

Maryland Department of Health:

Board of Physicians:

Licensure of Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants: COMAR 10.32.10.02 and .10

According to the department:

- add and revise definitions;
- revise the scope of practice section to more accurately reflect current national requirements; and
- more expeditiously facilitate the Nuclear Medicine Technologist licensure process.

Proposed Regulations

DLS Control No. 19-168

Maryland Department of Health:

Board of Chiropractic Examiners:

Chiropractic Assistants: COMAR 10.43.07.01 through .18

Code of Ethics: COMAR 10.43.13.06

Record Keeping: COMAR 10.43.14.03 and .04

According to the department:

- define and establish parameters for indirect supervision of chiropractic assistants;
- update qualifications and training requirements for chiropractic applicants and assistants;

- add clarifying language for supervision;
- update certain definitions;
- reorganize existing regulations;
- add regulations to outline procedures for inactive status and non-renewed status; and
- add clarifying language regarding patient consent.

Labor, Maryland Department of

Proposed Regulations

DLS Control No. 19-170

Maryland Department of Labor:

Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors – Real Estate Appraisers:

Educational Requirements: COMAR 09.19.02.01

Work Experience Requirements: COMAR 09.19.03.01

According to the department, the purpose of this action is to amend pre-license education and work experience criteria for real estate appraisers to comply with the most current Appraiser Qualifications Board guidelines for eligibility for an examination required to obtain an original appraiser license or certificate. The amendments: (1) eliminate the requirement of a college degree for a licensed residential appraiser and propose a variety of educational paths to certified residential licensure; and (2) decrease the amount of time within which a licensed residential appraiser and certified general appraiser applicant must demonstrate work experience and reduce the work experience requirements for a licensed residential appraiser applicant. The department maintains the amendments will allow a greater number of prospective applicants to qualify for licensure and expedite the time within which a prospective applicant must demonstrate pre-license work experience.

Insurance Administration, Maryland

Proposed Regulation

DLS Control No. 19-163

Maryland Insurance Administration:

Taxes and Fees:

Premium Tax – Required Filings, Payments, Penalties, and Interest:

COMAR 31.06.04.01 through .03

According to the administration, the purpose of this action is to amend Regulations .01-.03 under COMAR 31.06.04 (Premium Tax - Required Filings, Payments, Penalties, and Interest). These regulatory changes are meant to clarify the required reports to be filed and the fees to be paid in accordance with statutory changes made during the 2019 legislative session. During the 2019 legislative session, Senate Bill 239, enacted as Chapter 598, made changes to § 6-102.1 of the Insurance Article, and these regulations clarify these changes.

Proposed Regulations

DLS Control No. 19-175

Maryland Insurance Administration:

Insurers:

Title Insurers: COMAR 31.04.22.03 and .04

According to the administration, the purpose of this action is to amend Regulations .03 and .04 under COMAR 31.04.22 (Title Insurers). COMAR 31.04.22.04B(7) addresses the certification a principal agent is required to make as part of the annual on-site review a title insurer is required to perform pursuant to §10-121(k) of the Insurance Article. Due to changes that have been made to § 10-121 since the regulation was initially enacted, the regulation now contains an outdated statutory reference and creates situations where an unlicensed individual is permitted to sign the certification. These proposed modifications address the outdated statutory reference contained in COMAR 31.04.22.04B(7)(a) and would ensure that a licensed insurance producer is required to sign the certification required by COMAR 31.04.22.04B(7).

Administrative Hearings, Office of

Proposed Regulations

DLS Control No. 19-171

Office of Administrative Hearings:

Administration:

Family Relations Policy: COMAR 28.01.01.01 through .02

Security and Decorum: COMAR 28.01.02.01 through .03

Administrative Law Judge Removal, Suspension, or Demotion for Cause Charges:

COMAR 28.01.03.01 through .09

Public Information Act Requests: COMAR 28.01.04.03, .09, and .14 through .16

Correction or Amendment of Personal Records:

COMAR 28.01.05.02, and .05 through .11

Rules of Procedure:

COMAR 28.02.01.01 through .06, .08 through .21, and .23 through .26

Fees: COMAR 28.03.01.01 through .08

According to the office, the purpose of this action is to: 1) make non-substantive changes that, among other things, remove redundancy and outdated, ambiguous, or confusing language, utilize common terminology, and improve logical flow and internal consistency; and (2) make substantive changes and additions to the regulations that, among other things, incorporate current

agency practices and implement new practices determined necessary and appropriate. Substantive changes are of two types—general changes affecting all subtitles, and specific changes affecting one or more regulations within a particular chapter or chapters.

Education, State Board of

Emergency Regulation

DLS Control No. 19-169

State Board of Education:

School Personnel:

State Board of Education Teacher Member Election:

COMAR 13A.07.13.01 through .07

According to the board, on May 24, 2019, Governor Hogan allowed Senate Bill 529/House Bill 87, State Board of Education – Membership – Teacher Parent Members, to become law without his signature. These bills have been codified in Education Article §2-202, which became effective on June 1, 2019. This law increases the membership of the State Board from 12 to 14 members by adding one certified teacher who is actively teaching and one parent of a student enrolled in a public school.

The Maryland State Department of Education (MSDE) is responsible for adopting regulations pertaining to an election of the teacher member and then conducting an election in accordance with those regulations. The statute requires a teacher member be seated by January 1, 2020. Based on this timeframe, the MSDE must hold the election by December 2019.

Emergency regulations are necessary in order to have a procedure in place to govern the election, which may involve votes cast by approximately 133,000 certified teachers in Maryland. The election process must include several months' lead time for the MSDE to inform teachers about the upcoming election, allow candidates to submit themselves for nomination, to review nominations to ensure that candidates meet the relevant requirements, to create ballots based on the eligible candidates who submitted nominations; and to procure a vendor to conduct the election and report the results to the MSDE.