

**Maryland General Assembly
Department of Legislative Services**

**Emergency Regulations
State Board of Education**
(DLS Control No. 23-194)

Overview and Legal and Fiscal Impact

The regulations make identical changes to regulations concerning family child care homes, large family child care homes, and child care centers related to the guidelines and restrictions concerning the use, storage, and accessibility of cannabis. The regulations also require bio contaminants and biohazards to be disposed of in a clean and sanitary manner in family child care homes, large family child care homes, and child care centers.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Education:

Family Child Care Central Repository: Scope and Definitions: COMAR 13A.15.01.02

Home Environment and Equipment: COMAR 13A.15.05.03

Child Safety: COMAR 13A.15.10.02

Health: COMAR 13A.15.11.04 – .06

Child Care Centers: Scope and Definitions: COMAR 13A.16.01.02

Physical Plant and Equipment: COMAR 13A.16.05.11

Safety: COMAR 13A.16.10.04

Health: COMAR 13A.16.11.04 – .06

Child Care – Letters of Compliance: Scope and Definitions: COMAR 13A.17.01.02

Physical Plant and Equipment: COMAR 13A.17.05.11

Safety: COMAR 13A.17.10.04

Health: COMAR 13A.17.11.04 – .06

Large Family Child Care Homes: Scope and Definitions: COMAR 13A.18.01.02

Home Environment and Equipment: COMAR 13A.18.05.11

Safety: COMAR 13A.18.10.04

Health: COMAR 13A.18.11.04 – .06

Legal Analysis

Background

Chapter 45 of 2022 proposed a constitutional amendment that, when approved by the voters by referendum in the 2022 general election, authorized adult-use cannabis beginning July 1, 2023,

subject to legislation passed by the General Assembly regarding the use, distribution, possession, regulation, and taxation of cannabis. Chapters 254 and 255 of 2023 established the adult-use cannabis industry in the State by: (1) attributing cannabis-related duties to the Alcohol and Tobacco Commission and renaming it the Alcohol, Tobacco, and Cannabis Commission; (2) establishing the Maryland Cannabis Administration as an independent unit of State government and as the designated successor to the Medical Cannabis Commission in matters concerning the regulation of medical cannabis; (3) creating a licensing framework for the regulated sale of cannabis; (4) establishing a sales and use tax on the sale of adult-use cannabis; and (5) creating the Office of Social Equity in the administration and the Social Equity Partnership Grant Program in the Office of Social Equity.

Summary of Regulations

The regulations make identical changes to regulations concerning family child care homes, large family child care homes, and child care centers related to the guidelines and restrictions concerning the use, storage, and accessibility of cannabis.

The identical regulations in all four chapters:

- define cannabis, including cannabis vaporizing devices, concentrated cannabis products, edible cannabis products, and any usable cannabis products;
- expand the list of potentially hazardous items that require proper storage to include alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts;
- provide standards for the administration of medical cannabis by a caregiver to a qualifying medical cannabis patient;
- combine the existing regulations that address smoking and the consumption of alcohol and drugs into one regulation and add that the current regulations prohibiting the use of alcohol and tobacco also include cannabis and vaping;
- require notice of smoking, vaping, or cannabis use to parents considering placing their child in care;
- prohibit the consumption of alcohol, smoking, or vaping in the immediate presence of a child in care; and
- require that all alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts are kept out of the reach of children in care.

The regulations also require bio contaminants and biohazards to be disposed of in a clean and sanitary manner in family child care homes, large family child care homes, and child care centers.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State Board of Education cites §§ 9.5-301 through 9.5-308, 9.5-310 through 9.5-312, 9.5-320, and 9.5-414 of the Education Article, §§ 5-550 through 5-558 of the Family Law Article, § 4-333 of the General Provisions Article, and §1-202 of the Human Services Article as statutory authority for the regulations related to family child care. Additionally, the State board cites §9.5-321 of the Education Article as statutory authority for the regulations related to large family child care homes. More specifically, § 9.5-303 of the Education Article requires the State board to adopt regulations that relate to the registration of family child care homes and large family child care homes and subsection (c)(1) requires the regulations, at a minimum, to include minimum standards for environmental health and safety.

The State board cites §§ 9.5-401, 9.5-404 through 9.5-411, and 9.5-413 through 9.5-418 of the Education Article, §§ 5-550 through 5-558 of the Family Law Article, § 4-333 of the General Provisions Article, and §1-202 of the Human Services Article as statutory authority for the regulations related to child care centers. More specifically, § 9.5-404 of the Education Article requires the State board to adopt regulations for licensing and operating child care centers and subsection (b)(2) requires the State board to adopt regulations that ensure proper care, protection, and supervision of children in child care centers.

The State board cites §§ 9.5-401, 9.5-404, 9.5-405, 9.5-409, 9.5-411, and 9.5-413 through 9.5-418 of the Education Article §§ 5-550 through 5-558 of the Family Law Article, § 4-333 of the General Provisions Article, and §1-202 of the Human Services Article as statutory authority for the regulations related to child care centers that hold a letter of compliance. More specifically, § 9.5-404 of the Education Article requires the State board to adopt regulations for licensing and operating child care centers and subsection (b)(2) requires the State board to adopt regulations that ensure proper care, protection, and supervision of children in child care centers.

The remaining cited authority is not relevant to these regulations.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Emergency Status

The State board requests emergency status beginning August 11, 2023, and expiring February 17, 2024. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The State board indicates that the emergency status is necessary to prevent inappropriate exposure to or ingestion of cannabis.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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