



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: Georgeanne Carter, AELR Committee Counsel
John J. Joyce, AELR Committee Counsel
Kathleen P. Kennedy, AELR Committee Counsel

Date: November 15, 2021

Re: **Synopses of Regulations received from 10/29/2021 through 11/14/2021**

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: Sally M. Robb
Alexandra M. Hughes

Comptroller of the Treasury

Work Plan

DLS Control No. 21-197

Comptroller of the Treasury:

Alcohol and Tobacco Tax:

Alcoholic Beverages: COMAR 03.02.01.20

Administration: COMAR 03.02.04.01

Sales and Use Tax: Sales and Use Tax: COMAR 03.06.01.33

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

Public Safety and Correctional Services, Department of

Proposed Regulations

DLS Control No. 21-200

Department of Public Safety and Correctional Services:

Police Training Commission:

General Regulations: COMAR 12.04.01.01 and .16

According to the department, the purpose of this action is to amend COMAR 12.04.01.01 and 12.04.01.16 in order to align current certification practice with recent changes to § 3-209 of the Public Safety Article. In line with this significant change in public policy, the Police Training and Standards Commission (PTSC) is amending certification practices so that individuals applying to become mandated police officers are not automatically disqualified by past use of a marijuana. This amendment to COMAR reduces the applicant's eligibility timeframe for unlawful use of marijuana from 36 months to 12 months. Amendments to COMAR 12.04.01.01 and .16 build in measures that allow the employing agency to investigate thoroughly an applicant prior to certification. These measures increase the ability of the employer to require a new hire with a qualifying past history of substance use to submit to specified substance abuse testing for a period of two years from date of certification. The controls and investigative techniques used by law enforcement agencies to ensure that current and prospective employees are not engaging in acts of moral turpitude or substance abuse include ongoing post-certification substance abuse testing.

Proposed Regulations

DLS Control No. 21-201

Department of Public Safety and Correctional Services:

Police Training Commission:

Firearms Training: COMAR 12.04.02.02, .03, .04 and .07 through .10

According to the department, the purpose of this action is to amend regulations within Chapter 02–Firearms Training to require additional training for a police officer attempting to

qualify with and be authorized to use a firearm equipped with a new technology identified by manufacturers as a “Red Dot” sighting system. Instruction, training hours, and rounds of fire completed with a firearm equipped with a red dot sighting system will be included in the established training hours and rounds of fire needed for a police officer’s authorization to use a firearm equipped with a standard and traditional iron sight system.

Civil Rights, Commission on

Emergency Regulation

DLS Control No. 21-188

Independent Agencies:

Prescription Drug Affordability Board:

Prescription Drug Affordability Fund: COMAR 14.01.02.02 through 03

According to the commission, these regulations clarify the process for generating invoices for, and the procedures for requesting and evaluating requests for waivers and exemptions from, the assessment imposed by the Prescription Drug Affordability Fund under the purview of the Prescription Drug Affordability Board.

Proposed Regulations

DLS Control No. 21-193

Independent Agencies:

Maryland Technology Development Corporation:

Definitions: COMAR 14.04.01.01

Investment Programs: COMAR 14.04.02.05

Investment Programs: COMAR 14.04.02.06

Investment Programs: COMAR 14.04.02.09

Builder Fund: COMAR 14.04.03.01

Builder Fund: COMAR 14.04.03.02

Builder Fund: COMAR 14.04.03.03

Builder Fund: COMAR 14.04.03.04

Builder Fund: COMAR 14.04.03.05

Builder Fund: COMAR 14.04.03.06

Seed Funds: COMAR 14.04.05.05

Maryland Venture Fund: COMAR 14.04.06.05

Maryland Venture Fund: COMAR 14.04.06.07

Investment Committee: COMAR 14.04.07.04

According to the commission, the purpose of this action is to update the regulations to conform to Chapters 195, 180, and 415 of 2021, including amending definitions, adding provisions to govern TEDCO’s investments through the Inclusion Fund, and amending regulations to align with new statutory provisions for the Pre-Seed Builder Fund. Additionally, the action amends the definition of “early-stage business” and modifies certain eligibility requirements to expand the qualified businesses in which Maryland Technology Development Corporation (TEDCO) may

invest. The action also amends regulations for the Pre-Seed Builder Fund to clarify that economic disadvantage is measured by analysis of the current owners regardless of their status as founders. To facilitate investment by TEDCO's GAP Fund, the action amends regulations to eliminate the requirement that non-governmental matching funds be received by a business concurrently with the GAP Fund investment. Instead, the recipients of GAP Fund investments would be permitted receive the matching funds up to 90 days before the GAP Fund investment, so long as those matching funds are part of the same financing round as the GAP Fund investment. Finally, the action makes some administrative changes to repeal a confusing cross-reference and update a statutory citation.

Maryland Department of Health

Proposed Regulations

DLS Control No. 21-196

Maryland Department of Health:

Medical Care Programs:

Health Homes: COMAR 10.09.33.08 and .09

According to the department, the purpose of this action is to effectuate the health homes provider rates included in the Fiscal Year (FY) 2022 budget. Additionally, it preserves the rates in effect for the first half of Fiscal Year 2021.

Proposed Regulation

DLS Control No. 21-198

Maryland Department of Health:

Medical Care Programs:

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

COMAR 10.09.89.09 through .12

According to the department, the purpose of this action is to effectuate the 1915(i) intensive behavioral health services for children, youth, and families program reimbursement rates provided in the Fiscal Year 2022 budget. Additionally, it preserves the rates in effect for the first half of Fiscal Year 2021.

Proposed Regulation

DLS Control No. 21-199

Maryland Department of Health:

Maryland HealthChoice Program:

Managed Care Organizations: COMAR 10.67.04.19

According to the department, the purpose of this action is to implement the Calendar Year 2021 HealthChoice Managed Care Organization capitation rates. Additionally, it preserves the Calendar Year 2020 capitation rates.

Labor, Maryland Department of

Proposed Regulation

DLS Control No. 21-191

Maryland Department of Labor:

Board of Architects:

Continuing Professional Competency Requirements:

COMAR 09.21.05.01 through .12

According to the department, the purpose of this action is to update the Maryland Board of Architect's Continuing Professional Competency Requirements to increase access for licensees to continuing education and to be consistent with regional and national changes. Additionally, the Maryland Board of Architects is clarifying its requirements with these amendments.

Proposed Regulation

DLS Control No. 21-192

Maryland Department of Labor:

Real Estate Commission:

Code of Ethics: COMAR 09.11.02.01

According to the department, the purpose of this action is to clarify the definition of advertising in COMAR 09.11.02.01 and to detail the requirements regarding internet and social media advertising and the use of the term "directly connected" as it relates to team names.

Insurance Administration, Maryland

Proposed Regulations

DLS Control No. 21-189

Maryland Insurance Administration:

Insurance Producers and Other Insurance Professionals:

Producer Registers and Documentation of Appointments:

COMAR 31.03.13.02 and .04

According to the administration, the purpose of this action is to amend regulations to promote efficiency by narrowing the list of required elements in the registry to ensure that compliance is not unduly burdensome, as compared with the necessity of obtaining the required information. Specifically, this proposal removes the requirement under Regulation .04 documentation of appointment which required an insurer to provide the insurance producer with written documentation which included the insurance producer's residence or business address within 30 days of appointment. This requirement was removed as unduly burdensome on the insurer because many insurance producers work out of multiple locations.

Proposed Regulations

DLS Control No. 21-190

Maryland Insurance Administration:

Health Insurance – General:

Pharmacy Services Administrative Organizations: COMAR 31.10.49.01 through .05

Filing of PSAO Contracts and Amendments: COMAR 31.10.50.01 through .05

According to the administration, the purpose of this action is to adopt Regulations .01 through .05 under COMAR 31.10.49 Pharmacy Services Administrative Organizations and adopt Regulations .01 through .05 under COMAR 31.10.50 Filing of PSAO Contracts and Amendments. Specifically, these regulations are being implemented in accordance with Title 15, Subtitle 20 of the Insurance Article, which was enacted during the 2020 legislative session. The statute includes requirements for disclosure and contract filing requirements for pharmacy services administrative organizations. These regulations implement these statutory requirements.

Education, State Board of

Proposed Regulations

DLS Control No. 21-194

State Board of Education:

School Personnel:

Standards for Professional Learning: COMAR 13A.07.11.02 and .03

According to the board, the purpose of this action is to expand language on suicide prevention that requires in-service training to enable educators to recognize student behavioral health issues; recognize students experiencing trauma or violence out of school and refer students to behavioral health services; and if the school is a community school, address support for any students needing the services at a community school.

Proposed Regulations

DLS Control No. 21-195

State Board of Education:

Special Instructional Programs:

Provision of a Free Appropriate Public Education:

COMAR 13A.05.01.03, .08, and .09

According to the board, the purpose of this action is to align special education regulations with changes made to Education Article, §8-405, Annotated Code of Maryland, during the 2021 legislative session. To ensure students with disabilities are provided with a free appropriate public education (FAPE), the statute requires each Individualized Education Program (IEP) to include a Learning Continuity Plan for implementation during emergency conditions. The proposed amendments define the Learning Continuity Plan and emergency conditions, specify its inclusion in the IEP, and provide a process with timelines for communication with the parent during emergency conditions.