



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

Date: July 23, 2021

Re: **Synopses of Regulations received from 7/14/2021 through 7/22/2021**

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: Jake Weissmann
Alexandra M. Hughes

Elections, State Board of

Proposed Regulations

DLS Control No. 21-067

Board of Elections:

Absentee Ballots:

Applications: COMAR 33.11.02.03

Issuance and Return: COMAR 33.11.03.06

Canvass of Ballots – Rejecting Ballots: COMAR 33.11.05.07

Early Voting: Early Voting Center Equipment and Materials:
COMAR 33.17.04.03 and .06

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

- incorporate the requirements from Chapter 524 of the 2018 Laws of Maryland (House Bill 1331) which requires that a voter who wants to receive an electronic absentee ballot provide certain information;
- codify the requirement from the 2020 elections that the local boards notify voters who returned a voted ballot without signing the return envelope;
- align the regulation with Chapter 463 of the 2015 Laws of Maryland (House Bill 884) which repealed the requirement to reject an absentee ballot if the voter died before election day;
- update the regulation to reflect current State Board policy requiring local boards of election to deploy ballots and other contingency supplies in the event of a court order extending voting hours during early voting; and
- align the regulation with COMAR 33.11.03.06E, which authorizes the collection of voted absentee ballots at early voting centers and polling places.

Department of Human Services

Proposed Regulation

DLS Control No. 21-074

Department of Human Services:

Office of the Secretary:

Legal Services: COMAR 07.01.13.07

According to the department, the purpose of this action is to remove an outdated process. The Judicure Committee no longer reviews invoices of the Court-appointed attorneys on behalf of the Department, and has not done so for more than ten (10) years.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 21-078

Department of Natural Resources:

Boating–Speed Limits and Operation of Vessels:

Deep Creek Lake: COMAR 08.18.33.03

According to the department, the purpose of this action is to update and clarify existing boating laws and coordinates of certain boundaries. There is an inlet between Beckman’s Peninsula and Harvey’s Peninsula that is very narrow so waterway users are restricted from towing in that area. The coordinates for the restricted area were incorrect. The proposed action describes the correct area. The action also reorganizes the text to make it clear and to follow style guidelines. The proposed action modifies the speed limit in the portion of the lake known as North Glade Cove. The cove is narrow with many obstacles and is heavily used by recreational vessels, both powered and non-powered. The proposed action defines the area with coordinates. The defined area is designated as a minimum wake zone.

Transportation, Department of

Proposed Regulation

DLS Control No. 21-065

Department of Transportation:

Motor Vehicle Administration — Vehicle Equipment:

Safety Glass Replacement Standards: COMAR 11.13.12.01 through .09

According to the department, the purpose of this action is to establish standards and requirements for aftermarket safety glass replacement in order to conform to Chapter 461, House Bill 519, Acts of 2021.

Maryland Department of Health

Proposed Regulations

DLS Control No. 21-069

Maryland Department of Health:

Medical Care Programs:

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services:

COMAR 10.09.23.01-1, 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, which is incorporated by reference in this regulation; and
- clarify limitations to accommodate EPSDT services rendered via audio-only and audio-visual telehealth.

Proposed Regulation

DLS Control No. 21-070

Maryland Department of Health:

Medical Care Programs:

Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Audiology

Services: COMAR 10.09.51.05

According to the department, the purpose of this action is to clarify Medicaid coverage policy for hearing aid replacement. Specifically, the proposed action clarifies that participants younger than 21 years old are eligible to receive one hearing aid replacement every five years, unless the department approves more frequent replacement. Additionally, it establishes that participants 21 years old or older are eligible to receive one hearing aid replacement every five years, unless the department approves more frequent replacement, but no more than one hearing aid replacement extraneous to the manufacturer's warranty or the department's expected lifetime of the device.

Proposed Regulation

DLS Control No. 21-071

Maryland Department of Health:

Food: Food Service Facilities: COMAR 10.15.03.27

According to the department, the purpose of this action is to align Regulation .27 Farmer's Market, Bake Sales, and Cottage Food Business, with Chapter 405 of the Acts of 2020 (HB 1017), which established that cottage food businesses may request a unique identification number from the Department to be used in lieu of a business address on a cottage food product label.

Proposed Regulation

DLS Control No. 21-072

Maryland Department of Health:

Board of Physicians:

Delegation of Acts by a Licensed Physician to an Assistant Not Otherwise

Authorized under the Health Occupations Article or the Education Article:

COMAR 10.32.12.01 through .07

According to the department, the purpose of this action is to update regulations to reflect statutory changes, effective October 1, 2019, pursuant to House Bill 924, "State Board of

Physicians – Registered Cardiovascular Invasive Specialists,” 2019, Chapter 445. Specifically, the proposal:

- updates of the title and scope of the chapter;
- adds statutory citations to the chapter authority;
- revises and adds definitions in Regulation .02;
- updates the title and adds civil penalty language in Regulation .05;
- adds new Regulation .06, which addresses matters regarding education and training of registered cardiovascular invasive specialists and the responsibilities of the RCIS, delegating physicians, and hospitals;
- the addition of a new Regulation .07 regarding enforcement matters; and
- technical changes or corrections.

Proposed Regulations

DLS Control No. 21-073

Maryland Department of Health:

Board of Examiners in Optometry:

Therapeutic Pharmaceutical Agents: COMAR 10.28.12.01, and .03 through .05

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

- add clarifying language to the definitions;
- establish evaluation standards for therapeutically certified optometrists utilizing therapeutic pharmaceutical agents (TPAs);
- remove obsolete language; and
- repeal existing Regulations .05 and .06.

Proposed Regulations

DLS Control No. 21-075

Maryland Department of Health:

Board for Certification of Residential Child Care Program Professionals:

Certification - Residential Child Care Program Administrators:

COMAR 10.57.02.01

Certification - Residential Child and Youth Care Practitioners:

COMAR 10.57.03.01

According to the department, the purpose of this action is to have individuals applying to become certified or recertified by the Board of Residential Child Care Program Professionals (which include RCCPAs (Residential Child Care Program Administrators) and RCYCPs (Residential Child and Youth Care Practitioners)), be responsible for the payment of any costs required to obtain additional administrative documents associated with the certification and renewal process.

Proposed Regulations

DLS Control No. 21-076

Maryland Department of Health:

Board of Acupuncture:

General Regulations: COMAR 10.26.02.02 through .05, and .08

Continuing Education: COMAR 10.26.06.01 through .03

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

- update the definition of “practice acupuncture” as a result of Chapter 543, Acts of 2019;
- add language that an applicant shall have graduated from a master’s level program or its equivalent in acupuncture, as a result of Chapter 543, Acts of 2019;
- remove obsolete language and make clarifying changes;
- define and establish qualifications and procedures for acupoint injection therapy; and
- establish a new chapter for continuing education requirements.

Proposed Regulation

DLS Control No. 21-077

Maryland Department of Health:

Maryland HealthChoice Program:

Non-Capitated Covered Services: COMAR 10.67.08.02

According to the department, the purpose of this action is to update the list of behavioral health diagnosis codes to reflect the addition of new International Classification of Diseases, 10th

Revision (ICD-10) diagnosis codes, and to update the current buprenorphine and evaluation and management procedure codes included in the behavioral health carve out.

Proposed Regulations

DLS Control No. 21-080

Maryland Department of Health:

Health Services Cost Review Commission:

Rate Application and Approval Procedures: COMAR 10.37.10.03 and .07-1

According to the department, the purpose of this action is to extend the period of time for which a hospital that has obtained permanent rates through the issuance of a Commission rate order following a regular (i.e., full) rate application is eligible to file a regular rate application with the Commission from 90 days to 365 days. The regulations also clarify that:

- a hospital may not bill a separate hospital facility fee when a health care provider who provided telehealth services is authorized to bill independently for the professional services rendered; and
- the delivery of telehealth services where the health care provider is physically located at the hospital constitutes outpatient services provided at the hospital and, therefore, subject to the Commission's rate setting jurisdiction.

Proposed Regulation

DLS Control No. 21-084

Maryland Department of Health:

Medical Care Programs:

Targeted Case Management for People with Intellectual and Developmental Disabilities: COMAR 10.09.48.08

According to the department, the purpose of this action is to implement a four percent rate increase for targeted case management services, in accordance with the State budget, approved under Senate Bill 190, Budget Bill (Fiscal Year 2021), Chapter 19, Section 1. Furthermore, in accordance with the findings of a rate study required by Ch. 648, Acts of 2014, the proposed action implements a geographic differential for targeted case management providers in certain counties. It also updates terms and conditions for participation to align with current practice and the Maryland Medicaid State Plan.

Labor, Maryland Department of

Emergency Regulation

DLS Control No. 21-066

Maryland Department of Labor:

Division of Labor and Industry:

Emergency Temporary Standards: COMAR 09.12.29.01-.02

According to the department, the Commissioner of Labor and Industry (L&I) is proposing to adopt by emergency action the federal Emergency Temporary Standard (ETS) promulgated by the Occupational Safety and Health Administration (OSHA) on June 21, 2021. The proposed emergency adoption is by incorporation by reference. Maryland Occupational Safety and Health Unit (MOSH) is seeking to adopt the federal ETS with no changes. MOSH operates under the authority of federal OSHA and must enforce standards that are “at least as effective” as those enforced by OSHA. OSHA has the authority to adopt a nationwide ETS under certain circumstances, and in turn, state plan states, such as Maryland, have 15 days to indicate their intent to adopt the ETS and a total of 30 days to complete that adoption. The ETS was promulgated on June 21, 2021 so MOSH is required to complete adoption by July 21, 2021. In addition, HB0581/Chapter 736, Laws of 2021 requires the Commissioner to adopt a federal COVID-19 ETS, if issued, within two weeks of the effective date of the bill which was June 11, 2021.

Institute for Emergency Medical Services Systems, Maryland

Proposed Regulation

DLS Control No. 21-079

Maryland Institute for Emergency Medical Services Systems:

Designation of Trauma and Specialty Referral Centers:

Designated Thrombectomy- Capable Primary Stroke Center Standards:

COMAR 30.08.19.01 through .15

According to the institute, the purpose of this action is to expand stroke care throughout the State to meet the needs of the stroke patient population experiencing large vessel occlusions.

Proposed Regulation

DLS Control No. 21-081

Maryland Institute for Emergency Medical Services Systems:

Designation of Trauma and Specialty Referral Centers:

Comprehensive Stroke Center Standards: COMAR 30.08.17.01 through .19

According to the institute, the purpose of this action is to update the current standards for Comprehensive Stroke Centers with the most current recommendations/guidelines for care of the complex stroke patient population.

Proposed Regulation

DLS Control No. 21-082

Maryland Institute for Emergency Medical Services Systems:

General:

Documents Incorporated by Reference: COMAR 30.01.02.01

According to the institute, the purpose of this action is to incorporate by reference the Current Maryland Medical Protocols for Emergency Medical Services.

Insurance Administration, Maryland

Proposed Regulations

DLS Control No. 21-068

Maryland Insurance Administration:

Property and Casualty Insurance:

Notices of Cancellation, Nonrenewal, Premium Increase, and Reduction in

Coverage: COMAR 31.08.03.04, through .06, and .10

According to the administration, the purpose of this action is to amend Regulations .04, .05, .06, and .10 under COMAR 31.08.03 Notices of Cancellation, Nonrenewal, Premium Increase, and Reduction in Coverage. During the 2021 legislative session, S.B. 110 was passed as Ch. 103, Acts of 2021. These regulations implement this bill. Specifically, these regulations update the need for duplicate and triplicate notices, correct existing regulation language regarding mailing method to match the current statutory requirement, and update the outdated fax number on the forms. Finally, these changes implement the language of § 11-318 of the Insurance Article regarding an increase in premium due to the application of a program that measures the insured's driving habits during that policy period.

Lottery and Gaming Control Agency, Maryland State

Emergency/Proposed Regulations

DLS Control No. 21-083

Maryland State Lottery and Gaming Control Agency:

General Provisions:

General: COMAR 36.01.01.01 and .05

Administrative Procedures: COMAR 36.01.02.04 through .06

Sports Wagering Provisions: **General:** COMAR 36.10.01.01 and .02

All Applicants and Licensees - Applications and Investigations: COMAR 36.10.02.01 through .14

Qualification Requirements: COMAR 36.10.03.01 through .06

Specific Requirements for Sports Wagering Facility Licensees: COMAR 36.10.04.01 through .11

Specific Requirements for Mobile Sports Wagering Licenses: COMAR 36.10.05.01 through .05

Specific Requirements for Other Licenses Required for Sports Wagering: COMAR 36.10.06.01 through .11

License Denial Procedures: COMAR 36.10.07.01 through .06

Enforcement: COMAR 36.10.08.01 through .11

Unannounced Inspections: COMAR 36.10.09.01 through .03

Enforcement of Voluntary Exclusion Program: COMAR 36.10.10.01 through .03

Mandatory Exclusion: COMAR 36.10.11.01 through .09

Collection of Taxes, Fees, and Penalties: COMAR 36.10.12.01 through .04

Sports Wagering Licensee Minimum Internal Control Standards: COMAR 36.10.13.01 through .44

Sports Wagering Requirements and Limitations: COMAR 36.10.14.01 through .07

Sports Wagering Licensee Facility Standards: COMAR 36.10.15.01 through .04

Wagering Using Online, Web-based, or Mobile Applications: COMAR 36.10.16.01 through .06

Sports Wagering Equipment: COMAR 36.10.17.01 through .03

Sports Wagering Technical Standards: COMAR 36.10.18.01 through .06

According to the agency, these are new regulations to implement the State's new Sports Wagering Program, and enable potential licensees to utilize the Agency's eLicensing system to process requests for sports wagering licenses.