



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
Kathleen P. Kennedy, AELR Committee Counsel
John J. Joyce, AELR Committee Counsel

Date: October 4, 2021

Re: **Synopses of Regulations received from 9/17/2021 through 10/3/2021**

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

Elections, State Board of

Proposed Regulation

DLS Control No. 21-134

Board of Elections:

Voter Registration:

Processing VRAs and Other Requests: COMAR 33.05.04.04

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

- update the regulations to reflect current practice that online voter registration and other electronic transactions require digitized signatures from MVA; and
- incorporate the new requirement that a Common Access Card (CAC) signature can be used to sign the Federal Post Card Application, a federal form for military and overseas voters to register to vote, update an existing registration, and request a mail-in ballot.

Environment, Department of the

Proposed Regulation

DLS Control No. 21-135

Department of the Environment:

Radiation Management:

Radiation Protection: COMAR 26.12.01.01

According to the department, the purpose of this action is to amend COMAR 26.12.01.01, Incorporation by Reference, to incorporate Supplement 31, to Adopt the Nuclear Regulatory Commission (NRC) Regulations RATS 2018-1 and 2018-2 amendments including:

- incorporate RATS 2018-1 – Medical Use of Byproduct Material – Medical Event Definitions, Training and Experience, and Clarifying Amendments 10 CFR Parts 30, 32, 35; and
- make minor corrections consistent with RATS 2018-2.

Veterans Affairs, Department of

Proposed Regulations

DLS Control No. 21-164

Department of Veterans Affairs:

Maryland Veterans Service Animal Program:

General Regulations: COMAR 35.06.01.02 and 07

According to the department, the purpose of this action is to update definitions in the Maryland Veterans Service Animal Program specifically “support dog” and “therapy horse” and to establish new processes for disbursement of funds.

Information Technology, Department of

Proposed Regulations

DLS Control No. 21-137

Independent Agencies:

Department of Information Technology:

Definitions and General Provisions: COMAR 14.33.01.

Information Technology Nonvisual Access Standards: COMAR 14.33.02.

According to the department, the purpose of this action is to amend Regulations COMAR 14.33.01 and COMAR 14.33.02 to be in accordance with Ch. 632 of 2018, requiring the adoption of new nonvisual access procurement standards that:

- provide an individual with disabilities with nonvisual access in a way that is fully and equally accessible to and independently usable by the individual with disabilities so that the individual is able to acquire the same information, engage in the same interactions, and enjoy the same services as users without disabilities, with substantially equivalent ease of use; and
- are consistent with the standards of § 508 of the Federal Rehabilitation Act of 1973.

Maryland Department of Health

Proposed Regulation

DLS Control No. 21-123

Maryland Department of Health:

Board of Professional Counselors and Therapists:

Art Therapists: COMAR 10.58.17.01 through .10

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

- update the definition for an art therapy supervisor and add other definitions to remain consistent with other chapters;
- add a new regulation for the application process;
- update and clarify qualifications for licensed graduate professional art therapists (LGPAT) and licensed clinical professional art therapists (LCPAT);
- update requirements for inactive status and reinstatement;
- for out-of-state applicants, add requirements for waiver of examination, equivalent education, waiver of courses, and equivalent experience;
- add clarifying language to supervisor and supervisee regulations; and
- remove obsolete dates under the Supervisor Qualifications regulation.

Proposed Regulations

DLS Control No. 21-126

Maryland Department of Health:

Board of Chiropractic Examiners:

Chiropractic Assistants: COMAR 10.43.07.01, .03, .08, .10 and .11

Dry Needling: COMAR 10.43.16.03 through .05

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

- define chiropractic assistant trainee and replace the term “applicant” throughout the chapter with the term “chiropractic assistant trainee” for clarity;
- require a chiropractic assistant notify the Board of any changes to name or address within 60 days;

- ensure that a chiropractic assistant displays their registration in a conspicuous place where the individual practices;
- revise the names for Regulations .10 and .11 for clarity;
- replace the term “chiropractic radiologic technologist” with “chiropractic assistant with X-ray privileges” to be more specific and accurate;
- amend the number of various number of X-ray studies to make them more workable and less onerous;
- clarify language regarding the scope of practice for dry needling;
- clarify the minimum education required for dry needling; and
- remove language that requires continuing education courses since they do not presently exist.

Proposed Regulations

DLS Control No. 21-127

Maryland Department of Health:

Board of Morticians and Funeral Directors:

Preneed Contract: COMAR 10.29.06.02 and .03

Requirements for Apprenticeship: COMAR 10.29.09.11

Advertising: COMAR 10.29.12.03 and .05

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

- remove the annual report requirement to document preneed trust accounts;
- amend education requirements for apprentices pursuant to the statutory requirements under Chapters 602 and 603, Acts of 2020; and
- add the board-approved use of post nominal initials for licensed morticians and licensed funeral directors.

Proposed Regulation
DLS Control No. 21-128
Maryland Department of Health:
Board of Occupational Therapy Practice:
Code of Ethics: COMAR 10.46.02.01

According to the department, the purpose of this action is to require mandatory licensee compliance with complaint investigations by the board.

Proposed Regulations
DLS Control No. 21-129
Maryland Department of Health:
Board of Professional Counselors and Therapists:
Marriage and Family Therapists – Requirements for Licensure:
COMAR 10.58.08.01 through .10
Supervision Requirements for Licensed Clinical Marriage and Family Therapists and Licensed Graduate Marriage and Family Therapists:
COMAR 10.58.15.01 through .08

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

- reorganize, update and add clarifying requirements for licensure;
- delete or amend obsolete information to more accurately reflect statutory requirements;
- clarify certain procedures for the administrative processing of applications; and
- repeal current COMAR 10.58.15 Supervision Requirements for Licensed Clinical Marriage and Family Therapists and Licensed Graduate Marriage and Family Therapists, and integrate it into one chapter, COMAR 10.58.08 Marriage and Family Therapists – Requirements for Licensure.

Proposed Regulations
DLS Control No. 21-130
Maryland Department of Health:
Board of Physical Therapy Examiners:
General Regulations: COMAR 10.38.01.01, .02, and .04
Standards of Practice: COMAR 10.38.03.02
Foreign-Educated Licensure Requirements: COMAR 10.38.06.03

According to the department, the purpose of this action is to establish guidelines for temporary licensure of physical therapists and physical therapist assistants pursuant to Chapters 473 and 474, Acts of 2021.

Proposed Regulations

DLS Control No. 21-132

Maryland Department of Health:

Board of Nursing:

Practice of Clinical Nurse Specialist: COMAR 10.27.27.01 and .04

According to the department, the purpose of this action is to provide clarity to clinical nurse specialists (CNS) on the acceptable standards of care for the profession, and to additionally provide a list of responsibilities that a CNS has been trained to perform in the clinical setting.

Proposed Regulation

DLS Control No. 21-133

Maryland Department of Health:

Board of Morticians and Funeral Directors:

Inspection of Funeral Establishments and Funeral Service Businesses:

COMAR 10.29.03.01 through .07

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

- update and clarify best practices to align with industry standards within the profession;
- provide regulatory requirements and guidelines for restricted funeral establishments;
- remove obsolete language; and
- repeal all provisions referring to inspections of funeral service businesses because these businesses no longer exist in Maryland.

Proposed Regulation

DLS Control No. 21-166

Maryland Department of Health:

Board of Physical Therapy Examiners:

Code of Ethics: COMAR 10.38.02.01

According to the department, the purpose of this action is to update the code of ethics non-discriminatory requirements pursuant to Chapter 428, Acts of 2020.

Proposed Regulations

DLS Control No. 21-167

Maryland Department of Health:

Medical Care Programs:

Nurse Anesthetist Services: COMAR 10.09.39.01 through .11

Maryland HealthChoice Program: Benefits: COMAR 10.67.06.21

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

- establish coverage, requirements, and reimbursement procedures for doulas who enroll in Maryland Medicaid to provide services for pregnant and postpartum individuals; and
- add doula and home visiting services to the list of MCO-covered pregnancy-related benefits.

Labor, Maryland Department of

Emergency/Proposed Regulations

DLS Control No. 21-169

Maryland Department of Labor:

Racing Commission:

Prohibited Acts: COMAR 09.10.03.01-1

According to the department, these amendments are to further the safety and welfare of horses participating in racing.

Institute for Emergency Medical Services Systems, Maryland

Proposed Regulation

DLS Control No. 21-138

Maryland Institute for Emergency Medical Services Systems:

Designation of Trauma and Specialty Referral Centers:

Eye Trauma Center Standards: COMAR 30.08.09.01 through .08

According to the institute, the purpose of this action is to update the existing eye trauma center standards to be consistent with the most current recommendations/guidelines for care of patient with ocular trauma injuries.

Proposed Regulation

DLS Control No. 21-163

Maryland Institute for Emergency Medical Services Systems:

Designation of Trauma and Specialty Referral Centers:

Neurotrauma Center Standards: COMAR 30.08.10.01 through .13

According to the institute, the purpose of this action is to update the standards for designation of Neuro Trauma Centers to reflect current standards for the care of the traumatic brain injured and spinal cord injured patients.

Attorney General, Office of the

Proposed Regulation

DLS Control No. 21-136

Office of the Attorney General:

Division of Securities:

Investment Adviser Regulations: COMAR 02.02.05.14

According to the office, the purpose of this action is to amend existing Regulation .14 to require that registered investment adviser representatives annually complete twelve credit hours of continuing education, including three hours of ethics, to maintain their investment adviser representative registrations with the State. Investment adviser representatives are required to ensure that their continuing education credits are reported to the Securities Commissioner. The amendment sets forth the consequences of failing to complete or report to the Securities Division an investment adviser representative's continuing education. The amendment further sets out potential exemptions/substitutions/ equivalents from the continuing education requirements for investment adviser representatives that receive continuing education credits in their capacities as broker-dealer agents of Financial Industry Regulatory Authority ("FINRA") members or through an accepted continuing education course program of a credentialing organization of a recognized credential held by the investment adviser representative. Regulation .14 also is being amended to require that persons successfully pass the investment examination rather than successfully pass the investment examination with a score of 70 or greater, and to eliminate a designation that exempts an individual from having to take and successfully pass the investment adviser examination, because the designation no longer exists. This action also amends Regulation .11 to remove the exemption from investment adviser representative registration for persons associated with investment advisers that are sole proprietorships or sole proprietorship equivalents. Finally, this action amends Regulation .01 to correct an incorrect cross reference in the definitional section.

Retirement and Pension System, State

Proposed Regulation

DLS Control No. 21-165

State Retirement and Pension System:

General Regulations:

Employment of a Retiree by a Participating Employer:

COMAR 22.01.11.01 through .07

According to the State Retirement Agency, the purpose of this action is to repeal and replace COMAR 22.01.11, concerning reemployment of retirees of the State Retirement and Pension System by participating employers of the System, to reflect statutory changes that have occurred over the last 10 years and to better reflect the agency's administration. COMAR 22.01.11 has not been amended since 2010. Since that time, several statutes governing reemployment of retirees have been enacted. For example, State Personnel and Pensions Article, § 23-407 alone underwent amendment every year between 2011 and 2020, inclusive. Accordingly, the

State Retirement Agency believes COMAR 22.01.11 requires a complete overhaul, which the Agency is proposing to accomplish by repealing the prior chapter and replacing it with the extensively revised proposed new chapter.