

Maryland Register



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Volume 50 • Issue 14 • Pages 551 — 668

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before June 26, 2023 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of June 26, 2023.

Gail S. Klakring
Acting Administrator, Division of State Documents
Office of the Secretary of State



Information About the Maryland Register and COMAR

MARYLAND REGISTER

The Maryland Register is an official State publication published every other week throughout the year. A cumulative index is published quarterly.

The Maryland Register is the temporary supplement to the Code of Maryland Regulations. Any change to the text of regulations published in COMAR, whether by adoption, amendment, repeal, or emergency action, must first be published in the Register.

The following information is also published regularly in the Register:

- Governor's Executive Orders
- Attorney General's Opinions in full text
- Open Meetings Compliance Board Opinions in full text
- State Ethics Commission Opinions in full text
- Court Rules
- District Court Administrative Memoranda
- Courts of Appeal Hearing Calendars
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- Synopses of Bills Introduced and Enacted by the General Assembly
- Other documents considered to be in the public interest

CITATION TO THE MARYLAND REGISTER

The Maryland Register is cited by volume, issue, page number, and date. Example:

- 19:8 Md. R. 815—817 (April 17, 1992) refers to Volume 19, Issue 8, pages 815—817 of the Maryland Register issued on April 17, 1992.

CODE OF MARYLAND REGULATIONS (COMAR)

COMAR is the official compilation of all regulations issued by agencies of the State of Maryland. The Maryland Register is COMAR's temporary supplement, printing all changes to regulations as soon as they occur. At least once annually, the changes to regulations printed in the Maryland Register are incorporated into COMAR by means of permanent supplements.

CITATION TO COMAR REGULATIONS

COMAR regulations are cited by title number, subtitle number, chapter number, and regulation number. Example: COMAR 10.08.01.03 refers to Title 10, Subtitle 08, Chapter 01, Regulation 03.

DOCUMENTS INCORPORATED BY REFERENCE

Incorporation by reference is a legal device by which a document is made part of COMAR simply by referring to it. While the text of an incorporated document does not appear in COMAR, the provisions of the incorporated document are as fully enforceable as any other COMAR regulation. Each regulation that proposes to incorporate a document is identified in the Maryland Register by an Editor’s Note. The Cumulative Table of COMAR Regulations Adopted, Amended or Repealed, found online, also identifies each regulation incorporating a document. Documents incorporated by reference are available for inspection in various depository libraries located throughout the State and at the Division of State Documents. These depositories are listed in the first issue of the Maryland Register published each year. For further information, call 410-974-2486.

HOW TO RESEARCH REGULATIONS

An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the “Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed” which is found online at <http://www.dsd.state.md.us/PDF/CumulativeTable.pdf>. This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call 410-260-3876.

SUBSCRIPTION INFORMATION

For subscription forms for the Maryland Register and COMAR, see the back pages of the Maryland Register. Single issues of the Maryland Register are \$15.00 per issue.

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

Maryland citizens and other interested persons may participate in the process by which administrative regulations are adopted, amended, or repealed, and may also initiate the process by which the validity and applicability of regulations is determined. Listed below are some of the ways in which citizens may participate (references are to State Government Article (SG), Annotated Code of Maryland):

- By submitting data or views on proposed regulations either orally or in writing, to the proposing agency (see “Opportunity for Public Comment” at the beginning of all regulations appearing in the Proposed Action on Regulations section of the Maryland Register). (See SG, §10-112)
- By petitioning an agency to adopt, amend, or repeal regulations. The agency must respond to the petition. (See SG §10-123)
- By petitioning an agency to issue a declaratory ruling with respect to how any regulation, order, or statute enforced by the agency applies. (SG, Title 10, Subtitle 3)
- By petitioning the circuit court for a declaratory judgment on the validity of a regulation when it appears that the regulation interferes with or impairs the legal rights or privileges of the petitioner. (SG, §10-125)
- By inspecting a certified copy of any document filed with the Division of State Documents for publication in the Maryland Register. (See SG, §7-213)

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COMAR Online

The Code of Maryland Regulations is available at www.dsd.state.md.us as a free service of the Office of the Secretary of State, Division of State Documents. The full text of regulations is available and searchable. Note, however, that the printed COMAR continues to be the only official and enforceable version of COMAR.

The Maryland Register is also available at www.dsd.state.md.us.

For additional information, visit www.dsd.maryland.gov, Division of State Documents, or call us at (410) 974-2486 or 1 (800) 633-9657.

Availability of Monthly List of Maryland Documents

The Maryland Department of Legislative Services receives copies of all publications issued by State officers and agencies. The Department prepares and distributes, for a fee, a list of these publications under the title "Maryland Documents". This list is published monthly, and contains bibliographic information concerning regular and special reports, bulletins, serials, periodicals, catalogues, and a variety of other State publications. "Maryland Documents" also includes local publications.

Anyone wishing to receive "Maryland Documents" should write to: Legislative Sales, Maryland Department of Legislative Services, 90 State Circle, Annapolis, MD 21401.

CLOSING DATES AND ISSUE DATES THROUGH DECEMBER 2023[†]

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Notices, etc. 10:30 a.m.	Final Regulations 10:30 a.m.
2023			
July 28	July 10	July 17	July 19
August 11	July 24	July 31	August 2
August 25	August 7	August 14	August 16
September 8	August 21	August 28	August 30
September 22	September 1**	September 11	September 13
October 6	September 18	September 25	September 27
October 20	October 2	October 6**	October 11
November 3	October 16	October 23	October 25
November 17	October 30	November 6	November 8
December 1	November 13	November 20	November 22

December 15	November 27	December 4	December 6
December 29	December 11	December 18	December 20

† Please note that this table is provided for planning purposes and that the Division of State Documents (DSD) cannot guarantee submissions will be published in an agency's desired issue. Although DSD strives to publish according to the schedule above, there may be times when workload pressures prevent adherence to it.

* Also note that proposal deadlines are for submissions to DSD for publication in the Maryland Register and do not take into account the 15-day AELR review period. The due date for documents containing 8 to 18 pages is 48 hours before the date listed; the due date for documents exceeding 18 pages is 1 week before the date listed.

NOTE: ALL DOCUMENTS MUST BE SUBMITTED IN TIMES NEW ROMAN, 9-POINT, SINGLE-SPACED FORMAT. THE PAGE COUNT REFLECTS THIS FORMATTING.

** Note closing date changes.

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

Under the COMAR codification system, every regulation is assigned a unique four-part codification number by which it may be identified. All regulations found in COMAR are arranged by title. Each title is divided into numbered subtitles, each subtitle is divided into numbered chapters, and each chapter into numbered regulations.

09.12.01.01D(2)(c)(iii)
 Title | Chapter | Section | Paragraph
 Subtitle | Regulation Subsection | Subparagraph

A regulation may be divided into lettered sections, a section divided into numbered subsections, a subsection divided into lettered paragraphs, and a paragraph divided into numbered subparagraphs.

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

This table, previously printed in the Maryland Register lists the regulations, by COMAR title, that have been adopted, amended, or repealed in the Maryland Register since the regulations were originally published or last supplemented in the Code of Maryland Regulations (COMAR). The table is no longer printed here but may be found on the Division of State Documents website at www.dsd.state.md.us.

Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata and corrections pertaining to proposed regulations are listed, followed by "(err)" or "(corr)," respectively. Regulations referencing a document incorporated by reference are followed by "(ibr)". None of the proposals listed in this table have been adopted. A list of adopted proposals appears in the Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed.

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21.05.13.01,.03,.05 • 50:12 Md. R. 480 (6-16-23)
21.05.14.01—06 • 50:12 Md. R. 480 (6-16-23)
21.05.15.01—05 • 50:12 Md. R. 480 (6-16-23)
21.06.09.01 • 50:12 Md. R. 480 (6-16-23)
21.07.01.31 • 50:12 Md. R. 480 (6-16-23)
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21.08.03.03 • 50:12 Md. R. 480 (6-16-23)
21.10.08.01,.02,.06 • 50:12 Md. R. 480 (6-16-23)
21.11.01.02,.06 • 50:12 Md. R. 480 (6-16-23)
21.11.03.03,.09,.17 • 50:12 Md. R. 480 (6-16-23)
21.11.03.10 • 50:13 Md. R. 539 (6-30-23)
21.11.05.01—07 • 50:12 Md. R. 480 (6-16-23)
21.11.14.04 • 50:12 Md. R. 480 (6-16-23)
21.13.01.08,.14,.18 • 50:12 Md. R. 480 (6-16-23)

26 DEPARTMENT OF THE ENVIRONMENT**Subtitles 01—07 (Part 1)**

26.04.01.01,.01-1,.20,.37 • 50:3 Md. R. 106 (2-10-23) (ibr)
26.04.12.01—07 • 50:2 Md. R. 73 (1-27-23)

Subtitles 08—12 (Part 2)

26.11.17.01,.04 • 50:11 Md. R. 455 (6-2-23)
26.11.34.02 • 50:10 Md. R. 417 (5-19-23)
26.12.01.01 • 50:9 Md. R. 384 (5-5-23) (ibr)

30 MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

30.09.12.04 • 50:13 Md. R. 541 (6-30-23)
30.09.14.04 • 50:13 Md. R. 541 (6-30-23)

31 MARYLAND INSURANCE ADMINISTRATION

31.04.22.02—07 • 50:12 Md. R. 491 (6-16-23)

31.10.06.06 • 50:9 Md. R. 385 (5-5-23)

33 STATE BOARD OF ELECTIONS

33.02.03.01—.05 • 50:13 Md. R. 542 (6-30-23)

33.12.02.01 • 50:13 Md. R. 542 (6-30-23)

33.13.10.05 • 50:12 Md. R. 492 (6-16-23)

33.13.13.06 • 50:12 Md. R. 492 (6-16-23)

33.17.04.06 • 50:13 Md. R. 542 (6-30-23)

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33.17.07.01 • 50:13 Md. R. 542 (6-30-23)

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33.19.02.01 • 50:13 Md. R. 542 (6-30-23)

The Judiciary

SUPREME COURT OF MARYLAND

DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of this Court dated June 21, 2023, EVAN J. KRAME (CPF# 9106030013) As of June 21, 2023, Evan J. Krame's name has been replaced on the register of attorneys permitted to practice law in the Supreme Court of Maryland. Notice of this action is given in accordance with Maryland Rule 19-761(b).

[23-14-13]

Emergency Action on Regulations

Symbol Key

- Roman type indicates text existing before emergency status was granted.
- *Italic type* indicates new text.
- [Single brackets] indicate deleted text.

Emergency Regulations

Under State Government Article, §10-111(b), Annotated Code of Maryland, an agency may petition the Joint Committee on Administrative, Executive, and Legislative Review (AELR), asking that the usual procedures for adopting regulations be set aside because emergency conditions exist. If the Committee approves the request, the regulations are given emergency status. Emergency status means that the regulations become effective immediately, or at a later time specified by the Committee. After the Committee has granted emergency status, the regulations are published in the next available issue of the Maryland Register. The approval of emergency status may be subject to one or more conditions, including a time limit. During the time the emergency status is in effect, the agency may adopt the regulations through the usual promulgation process. If the agency chooses not to adopt the regulations, the emergency status expires when the time limit on the emergency regulations ends. When emergency status expires, the text of the regulations reverts to its original language.

Title 14 INDEPENDENT AGENCIES

Subtitle 17 MARYLAND CANNABIS ADMINISTRATION

Notice of Emergency Action

[23-103-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to:

- (1) New Regulation **.01** under a new chapter, **COMAR 14.17.01 Definitions**;
- (2) New Regulations **.01—.03** under a new chapter, **COMAR 14.17.02 General Regulations**;
- (3) New Regulations **.01—.04** under a new chapter, **COMAR 14.17.03 Social Equity**;
- (4) New Regulations **.01—.10** under a new chapter, **COMAR 14.17.04 Medical Cannabis Program**;
- (5) New Regulations **.01—.08** under a new chapter, **COMAR 14.17.05 Application Process and Issuance of Licenses**;
- (6) New Regulations **.01—.10** under a new chapter, **COMAR 14.17.06 Standard Cannabis Licenses**;
- (7) New Regulations **.01—.08** under a new chapter, **COMAR 14.17.07 Micro Licenses**;
- (8) New Regulations **.01—.07** under a new chapter, **COMAR 14.17.08 Laboratory Registration and Operations**;
- (9) New Regulations **.01—.05** under a new chapter, **COMAR 14.17.09 Other Cannabis Businesses**;
- (10) New Regulations **.01—.05** under a new chapter, **COMAR 14.17.10 Cannabis Grower Operations**;

- (11) New Regulations .01—.07 under a new chapter, **COMAR 14.17.11 Cannabis Processor Operations;**
- (12) New Regulations .01—.09 under a new chapter, **COMAR 14.17.12 Cannabis Dispensary Operations;**
- (13) New Regulations .01—.11 under a new chapter, **COMAR 14.17.13 Cannabis Products;**
- (14) New Regulations .01—.06 under a new chapter, **COMAR 14.17.14 Complaints, Enforcement, Record Keeping, and Inspections of Cannabis Businesses;**
- (15) New Regulations .01—.06 under a new chapter, **COMAR 14.17.15 Cannabis Business Agents;**
- (16) New Regulations .01—.05 under a new chapter, **COMAR 14.17.16 Cannabis Business Owners;**
- (17) New Regulations .01—.08 under a new chapter, **COMAR 14.17.17 Secured Creditors and Receivership;**
- (18) New Regulations .01—.08 under a new chapter, **COMAR 14.17.18 Finished Product Packaging;**
- (19) New Regulations .01—.05 under a new chapter, **COMAR 14.17.19 Cannabis Research;**
- (20) New Regulations .01—.02 under a new chapter, **COMAR 14.17.20 Prohibited Acts;**
- (21) New Regulations .01—.02 under a new chapter, **COMAR 14.17.21 Fees;** and
- (22) New Regulations .01—.12 under a new chapter, **COMAR 14.17.22 Hearing Procedures.**

Emergency status began: July 1, 2023.

Emergency status expires: June 30, 2024.

Estimate of Economic Impact

I. Summary of Economic Impact. In Fiscal Year (FY) 2024, this emergency action will have a \$52,292,152 net positive economic impact on the Maryland Cannabis Administration budget. This amount represents revenue increases incurred through application and licensing fees collected from new growers, processors, and dispensaries, as well as tax revenue collected from cannabis sales, less statutorily mandated fund allocations and expenditures used for salaries and other operating expenses needed to implement the adult use cannabis market. \$19,727,152 of this amount will be returned to the General Fund.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
(1) Maryland Cannabis Administration	(E+)	\$14,545,696
(2) Maryland Cannabis Administration	(R+)	\$66,837,848
B. On other State agencies:		
(1) Maryland Department of Health	(E+)	\$1,972,715
(2) Department of Commerce	(E+)	\$1,972,715
C. On local governments:		
Local jurisdictions	(E+)	\$48,642,997
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Cannabis businesses	(-)	\$65,426,275
E. On other industries or trade groups:		
	NONE	
F. Direct and indirect effects on public:		
	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A(1). Due to the additional staff and operational costs needed to support implementation, less retained fund balance, the Administration anticipates \$14,545,696 in new expenditures. Note: The retained fund balance from the former Maryland Medical Cannabis Commission fund may offset FY 2024 expenses and increase subsequent General and Special Fund distribution.

A(2). The Administration is projecting \$600M in first year adult use sales. According to statute, adult use cannabis sales are subject to a 9% tax rate. As such the Administration anticipates adult use sales will generate \$54M in revenue.

In FY 2024, the Administration will solicit applications for first and second round licenses and will collect \$32,200,000 in application fees.

The Administration anticipates the first round of licensure in January 2024 will yield 30 micro growers, 30 micro processors, 10 micro dispensaries, and four incubators. Due to the likelihood of delayed startup for new standard cannabis businesses, no new standard licensed cannabis businesses will be fully operational before the end of FY 2024. Therefore, the Administration will collect a total of \$365,000 in license fees from operational micro licensees in FY 2024.

B(1). After the Administration's costs are subtracted from the sales tax revenue, fifty percent of the remaining funds, or \$19,727,152, will be distributed to certain funds. 5 percent (\$1,972,715) is allocated to the Cannabis Public Health Fund to be administered by the Maryland Department of Health.

B(2). After the Administration's costs are subtracted from the sales tax revenue, fifty percent of the remaining funds, or \$19,727,152, will be distributed to certain funds. 5 percent (\$1,972,715) is allocated to the Cannabis Business Assistance Fund to be administered by the Maryland Department of Commerce.

C. After the Administration's costs are subtracted from the sales tax revenue, fifty percent of the remaining funds, or \$19,727,152, will be distributed to certain funds. 35 percent plus the revenue from conversion fees, as discussed below (\$13,809,006 + \$32,861,275) is allocated to the Community Reinvestment and Repair Fund to be administered to local jurisdictions by the Comptroller. An additional 5 percent (\$1,972,715) will also be allocated to local jurisdictions.

All currently licensed medical cannabis businesses will convert to licenses to operate medical and adult use cannabis businesses. The Administration will collect license conversion fees from these businesses, which include 18 growers, 17 processors, and 97 dispensaries. Standard license conversion fees are based on Calendar Year (CY) 2022 total gross revenue. Growers and processors are charged 10% of CY 2022 total gross revenue, and dispensaries are charged 8% of CY 2022 total gross revenue. The amount of any licensing or renewal fee paid by a business in FY 2023 will be credited against the amount of the conversion fee due. The Administration will allow businesses to pay in four installments over a period of 18 months. If all businesses elect this option, the Administration will collect \$32,861,275 of a total \$65,722,550 from existing businesses during FY 24 and remit that amount to the Community Reinvestment and Repair Fund.

D. All currently licensed medical cannabis businesses will convert to licenses to operate medical and adult use cannabis businesses. The Administration will collect license conversion fees from these businesses, which include 18 growers, 17 processors, and 97 dispensaries. Standard license conversion fees are based on Calendar Year (CY) 2022 total gross revenue. Growers and processors are charged 10% of CY 2022 total gross revenue, and dispensaries are charged 8% of CY 2022 total gross revenue. The amount of any licensing or renewal fee paid by a business in FY 2023 will be credited against the amount of the conversion fee due. The Administration will allow businesses to pay in four installments over a period of 18 months. If all businesses elect this option, the Administration will collect \$32,861,275 of a total \$65,722,550 from existing businesses during FY 24.

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The Administration anticipates the first round of licensure in January 2024 will yield 30 micro growers, 30 micro processors, 10 micro dispensaries, and four incubators. Due to the likelihood of delayed startup for new standard cannabis businesses, no new standard licensed cannabis businesses will be fully operational before the end of FY 2024. Therefore, the Administration will collect a total of \$365,000 in license fees from operational micro licensees in FY 2024.

Economic Impact on Small Businesses

The emergency action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

Approximately half of cannabis business licensees, or 57 licensees, qualify as small businesses. This represents half of licensed businesses. To the extent small businesses participate in the Maryland cannabis industry, they will share in the revenue from newly legal adult use sales. They will also be subject to the various requirements for businesses in this industry, including conversion and license fees.

14.17.01 Definitions

Authority: Alcoholic Beverages and Cannabis Article, §36-101, Annotated Code of Maryland

.01 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Maryland Cannabis Administration established under Alcoholic Beverages and Cannabis Article, §36-201, Annotated Code of Maryland.

(2) "Advisory Council" means the Cannabis Public Health Advisory Council established under Health-General Article, §13-4502, Annotated Code of Maryland.

(3) "Agent" means an employee, a volunteer, or any other authorized person who acts for or at the direction of a cannabis licensee or cannabis registrant.

(4) "Ancillary business" means a business that is registered with the Administration to deliver, transport, or dispose of cannabis or green waste or provide security guard services to a cannabis licensee.

(5) Cannabis.

(a) "Cannabis" means the plant *cannabis sativa* L. and any part of the plant, including all non-synthetically derived, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration greater than 0.3 percent on a dry weight basis.

(b) "Cannabis" includes cannabis products.

(c) "Cannabis" does not include hemp or hemp products, as defined in the Agriculture Article, §14-101, Annotated Code of Maryland.

(6) Cannabis Product.

(a) "Cannabis product" means a product that is composed of cannabis, cannabis concentrate, cannabis extract, or any other ingredient and is intended for use or consumption.

(b) "Cannabis product" includes any product produced and regulated under this subtitle, including:

(i) Cannabis vaporizing devices;

(ii) Concentrated cannabis products;

(iii) Edible cannabis products; and

(iv) Usable cannabis products.

(c) "Cannabis product" does not include a home cultivation product.

(7) *Cannabis Vaporizing Device.*

(a) “Cannabis vaporizing device” means a device that can be used to deliver aerosolized or vaporized cannabis or cannabis products to an individual inhaling from the device.

(b) “Cannabis vaporizing device” includes:

(i) A vape pen;

(ii) Vaping liquid; and

(iii) Any component, part, or accessory of such a device regardless of whether it is sold separately, including a concentrated or infused cannabis liquid, for the purposes of heating and producing a vapor.

(8) *Canopy.*

(a) “Canopy” means the total square footage of space used by a licensee to produce flowering cannabis plants.

(b) “Canopy” includes each layer of flowering cannabis plants grown on any rack or shelving.

(c) “Canopy” does not include square footage used for:

(i) Mother stock;

(ii) Propagation;

(iii) Immature or nonflowering plants;

(iv) Processing;

(v) Drying;

(vi) Curing;

(vii) Trimming;

(viii) Storage;

(ix) Offices;

(x) Hallways;

(xi) Pathways;

(xii) Work areas; or

(xiii) Other administrative and nonproduction uses.

(9) *“Capsules” means a solid preparation containing a single serving of tetrahydrocannabinol or other cannabinoid that:*

(a) Is intended to be swallowed whole;

(b) Not formulated to be chewable, dispersible, effervescent, orally disintegrating, used as a suspension, or consumed in a manner other than swallowed whole; and

(c) Does not contain any added natural or artificial flavor or sweetener.

(10) *Caregiver.*

(a) “Caregiver” means an individual who has agreed to assist with a qualifying patient’s medical use of cannabis.

(b) “Caregiver” means, for a qualifying patient younger than 18 years old:

(i) A parent or legal guardian; and

(ii) Not more than two additional adults designated by the parent or legal guardian.

(c) “Caregiver” does not include any designated school personnel authorized to administer medical cannabis to a student in accordance with the guidelines established under Education Article, §7-446, Annotated Code of Maryland.

(11) *“Certifying provider” has the meaning stated in Alcoholic Beverages and Cannabis Article, §36-101, Annotated Code of Maryland.*(12) *Concentrated Cannabis Product.*

(a) “Concentrated cannabis product” means a product derived from cannabis that has undergone a process to concentrate one or more active cannabinoids.

(b) “Concentrated cannabis product” includes:

(i) Kief;

(ii) Hashish;

(iii) Bubble hash;

(iv) Oil;

(v) Wax;

(vi) Shatter;

(vii) Resin; or

(viii) Any other product produced by extracting cannabinoids from the plant using solvents, carbon dioxide, heat, screens, presses or steam distillation.

(c) “Concentrated cannabis product” does not include any cannabis vaporizing device as defined in this regulation.

(13) *“Conditional license” means a temporary preapproval for a cannabis license issued pending satisfactory completion of the requirements for licensing under COMAR 14.17.05.*

(14) *“Consumer” means an individual 21 years old or older who purchases cannabis or a cannabis product from a licensed dispensary or on-site consumption establishment.*

(15) *Control.*

(a) “Control” means:

(i) The decision-making authority over the management, operations, or policies that either guide a business or guide authority over the operation of the technical aspects of a business; or

(ii) Authority over the operation of the technical aspects of the business.

(b) “Control” includes:

(i) Holding a right to veto significant events;

(ii) The right or authority to make or veto decisions regarding operations and strategic planning, capital allocations, acquisitions, and divestments;

(iii) The right or authority to appoint or remove directors, corporate-level officers, or their equivalent;

(iv) The right or authority to make major marketing, production, and financial decisions; and

(v) The right or authority to execute exclusive contracts or significant contracts in the aggregate of \$10,000 or greater on behalf of the licensee.

(16) "Clinical director" means an individual who:

(a) Is appointed by a licensed dispensary to provide information on medical cannabis to qualifying patients, registered caregivers, and dispensary agents;

(b) Meets the requirements of COMAR 14.17.04.09; and

(c) Is registered with the Administration.

(17) "Criminal history record check" means a State and national criminal history records check in accordance with Alcoholic Beverages and Cannabis Article, §36-505, Annotated Code of Maryland.

(18) "Delivery service" means a licensee authorized to deliver cannabis in accordance with a micro license to operate a dispensary.

(19) Dispensary.

(a) "Dispensary" means an entity licensed under this title that acquires, possesses, repackages, transports, sells, distributes, or dispenses cannabis or cannabis products, including tinctures, aerosols, oils, and ointments, related supplies, and educational materials for use by qualifying patients, caregivers, or consumers through a storefront or through a delivery service, based on license type.

(b) "Dispensary" includes standard and micro license types.

(20) "Disproportionately impacted area" means a geographic area identified by the Office of Social Equity that has had above 150 percent of the State's 10-year average for cannabis possession charges.

(21) Edible Cannabis Product.

(a) "Edible cannabis product" means a cannabis product intended for human consumption by oral ingestion, in whole or in part.

(b) "Edible cannabis product" includes a cannabis product that dissolves or disintegrates in the mouth.

(c) "Edible cannabis product" does not include any concentrated cannabis products, infused non-edible cannabis products, or capsules or tinctures that do not contain any food or food ingredients.

(22) "Green waste" means unauthorized, misbranded, contaminated, unused, surplus, returned, or out-of-date cannabis or product containing cannabis.

(23) Grower.

(a) "Grower" means an entity licensed under Alcoholic Beverages and Cannabis Article, §36-401, Annotated Code of Maryland, that cultivates or packages cannabis and is authorized by the Administration to provide cannabis to other licensees and registered independent testing laboratories.

(b) "Grower" includes standard and micro license types.

(24) High Potency Product.

(a) "High potency product" means a product that exceeds the maximum potency for consumers, as established by the Administration, and may only be sold or distributed to a qualifying patient or registered caregiver.

(b) "High Potency Product" includes:

(i) A concentrated cannabis product; and

(ii) An edible cannabis product, capsule, tincture, or infused non-edible product that exceeds 10 milligrams THC per serving or 100 milligrams THC per package.

(25) Home Cultivation Product.

(a) "Home cultivation product" means the clones, seeds, seedlings, stalks, roots, and stems of the cannabis plant for home cultivation.

(b) "Home cultivation product" does not include any plant that is:

(i) Wider than 6 inches;

(ii) Taller than 6 inches; or

(iii) Otherwise in a vegetative or flowering state.

(26) "Incubator space" means a facility where a micro licensee may operate in accordance with Alcoholic Beverages and Cannabis Article, §36-406, Annotated Code of Maryland.

(27) "Independent testing laboratory" means a facility, entity or site that is:

(a) Registered with the Administration to perform tests on cannabis or cannabis products;

(b) Independent of any entity licensed under Alcoholic Beverages and Cannabis Article, §36-401, Annotated Code of Maryland, to grow, process or dispense cannabis; and

(c) Accredited as operating to International Organization for Standardization (ISO) standard 17025 by an accreditation body:

(i) Operating in accordance with ISO standard ISO/IEC 17011; and

(ii) That is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA).

(28) "Infused non-edible cannabis product" means ointment, salve, suppository, dermal patch, cartridge, or any other product containing cannabis that has been processed so that the dried leaves and flowers are integrated into other material that is not intended for human consumption by oral ingestion.

(29) "Law enforcement agency" means a governmental police force, sheriff's office, security force, or law enforcement organization of the State, a county, or a municipal corporation that by statute, ordinance, or common law is authorized to enforce the general criminal laws of the State.

(30) Licensee.

(a) "Licensee" means a business licensed by the Administration in accordance with Alcoholic Beverages and Cannabis Article, §36-401, Annotated Code of Maryland.

(b) "Licensee" includes any:

(i) Micro grower;

(ii) Micro processor;

- (iii) *Micro dispensary*;
- (iv) *Standard grower*;
- (v) *Standard processor*;
- (vi) *Standard dispensary*;
- (vii) *Incubator space*; and
- (viii) *On-site consumption establishment*.

(31) *Liquid Edible Product*.

(a) *“Liquid edible product” means an edible cannabis product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption.*

(b) *“Liquid edible product” excludes a tincture as defined in this section.*

(32) *“Micro license” means a license to operate a cannabis business that does not exceed the limits established in Alcoholic Beverages and Cannabis Article, §36-401(c)(2), Annotated Code of Maryland.*

(33) *“On-site consumption establishment” means an entity licensed by the Administration to distribute cannabis or cannabis products for on-site consumption other than by smoking indoors.*

(34) *“Owner” means a person with an ownership interest in a cannabis license.*

(35) *“Ownership interest” means a direct or indirect equity interest in a cannabis license, including in its shares or stock.*

(36) *“Passive investor” means an individual or an entity that:*

(a) *Holds an aggregate ownership interest of less than 5 percent in a cannabis licensee; and*

(b) *Does not have control of the cannabis licensee.*

(37) *“Personal use amount” means an amount of:*

(a) *Cannabis that does not exceed 1.5 ounces;*

(b) *Concentrated cannabis that does not exceed 12 grams;*

(c) *Cannabis products containing no more than 750 milligrams of delta-9-tetrahydrocannabinol; or*

(d) *Two or fewer cannabis plants.*

(38) *“Principal officer” means a board member, a president, a vice president, a secretary, a treasurer, a partner, an officer, a managing member, or any other individual with a profit sharing, financial interest, or revenue sharing arrangement, including an individual with the authority to control a cannabis license.*

(39) *“Processing” means the manufacture of usable cannabis into a cannabis concentrate or manufacture of a cannabis-infused product.*

(40) *Processor:*

(a) *“Processor” means an entity licensed by the Administration in accordance with Alcoholic Beverages and Cannabis Article, §36-401, Annotated Code of Maryland, that:*

(i) *Transforms cannabis into another product, or an extract, and packages and labels the cannabis product; and*

(ii) *Is authorized by the Administration to provide cannabis to licensed dispensaries and registered independent testing laboratories.*

(b) *“Processor” includes standard and micro license types.*

(41) *“Qualifying patient” means an individual who:*

(a) *Has been provided with a valid written certification by a certifying provider in accordance with a bona fide provider–patient relationship; and*

(b) *If younger than 18 years old, has a caregiver.*

(42) *Registrant:*

(a) *“Registrant” means a business registered by the Administration to operate in the cannabis industry.*

(b) *“Registrant” includes:*

(i) *Independent testing laboratories;*

(ii) *Transporter businesses;*

(iii) *Security guard company; and*

(iv) *Waste disposal company.*

(43) *“Seed-to-sale tracking system” means a software system procured by the Administration that tracks cannabis from either the seed or immature plant stage, until the cannabis is sold to a patient, caregiver, or consumer.*

(44) *Serious Adverse Event:*

(a) *“Serious adverse event” means an undesirable experience associated with the use of cannabis where the outcome was death, life-threatening, hospitalization, disability or permanent damage, congenital anomaly or birth defect or any other important medical event.*

(b) *“Serious adverse event” includes an experience that required intervention to prevent permanent impairment or damage.*

(45) *“Social equity applicant” means an applicant for a cannabis license or cannabis registration that:*

(a) *Has at least 65 percent ownership and control held by one or more individuals who:*

(i) *Have lived in a disproportionately impacted area for at least 5 of the 10 years immediately preceding the submission of the application;*

(ii) *Attended a public school in a disproportionately impacted area for at least 5 years; or*

(iii) *For at least 2 years, attended a 4-year institution of higher education in the State where at least 40 percent of the individuals who attend the institution of higher education are eligible for a Pell Grant; or*

(b) *Meets any other criteria established by the Administration.*

(46) *Social Equity Licensee:*

(a) *“Social equity licensee” means a social equity applicant who has been awarded a cannabis license.*

(b) *“Social equity licensee” includes a grower, processor, or dispensary that:*

(i) *Held a Stage One Preapproval for a license before October 1, 2022; and*

(ii) *Was not operational before October 1, 2022.*

(47) “Social Equity Partnership Grant” means a program within the Office of Social Equity that awards grants to promote qualifying partnerships between operational licensees and social equity licensees.

(48) “Standard license” means a license to operate a cannabis business that complies with the limits established in Alcoholic Beverages and Cannabis Article, §36-401(c)(1), Annotated Code of Maryland.

(49) “State cannabis testing laboratory” means a laboratory operated by the Administration in accordance with Alcoholic Beverages and Cannabis Article, §36-204, Annotated Code of Maryland.

(50) “Tetrahydrocannabinol” or “THC”, unless otherwise specified, means any:

(a) Tetrahydrocannabinol, including delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, and delta-10-tetrahydrocannabinol, regardless of how derived;

(b) Other cannabinoid, other than cannabidiol that the Administration determines to cause intoxication; and

(c) Other chemically similar compound, substance, derivative, or isomer of tetrahydrocannabinol, as identified by the Administration.

(51) “Tincture” means a solution that is:

(a) Dissolved in alcohol, glycerin, or vegetable oil; and

(b) Distributed in a dropper bottle of four ounces or less.

(52) Usable Cannabis.

(a) “Usable cannabis” means the dried leaves and flowers of the cannabis plant.

(b) “Usable cannabis” does not include seedlings, seeds, stems, stalks, or roots of the plant or the weight of any noncannabis ingredients combined with cannabis, such as ingredients added to prepare a topical administration.

(53) Usable Cannabis Product.

(a) “Usable cannabis product” means a prepackaged product containing usable cannabis.

(b) “Usable cannabis product” includes:

(i) A pre-rolled amount of usable cannabis;

(ii) Securely stored, sealed, and labeled amount of usable cannabis; and

(iii) Any other type or amount of usable cannabis that has been wrapped, rolled, or otherwise encased for the purposes of smoking.

(54) “Written certification” means a certification that:

(a) Is issued by a certifying provider to a qualifying patient with whom the provider has a bona fide provider–patient relationship;

(b) Includes a written statement certifying that, in the certifying provider’s professional opinion, after having completed an assessment of the patient’s medical history and current medical condition, the patient has a condition:

(i) That meets the inclusion criteria and does not meet the exclusion criteria of the certifying provider’s application; and

(ii) For which the potential benefits of the medical use of cannabis would likely outweigh the health risks for the patient; and

(c) May include a written statement certifying that, in the certifying provider’s professional opinion, a 30–day supply of medical cannabis would be inadequate to meet the medical needs of the qualifying patient.

14.17.02 General Regulations

Authority: Alcoholic Beverages and Cannabis Article, §§36-201, 36-401, and 36-403, Annotated Code of Maryland

.01 Succession of the Maryland Medical Cannabis Commission.

A. The Maryland Cannabis Administration is the successor entity to the Natalie M. LaPrade Medical Cannabis Commission.

B. The Maryland Cannabis Administration has the authority of the Natalie M. LaPrade Medical Cannabis Commission set forth in COMAR 10.62.01—10.62.37.

C. Any bulletin, final order, notice of violation, or formal changes issued by the Natalie M. LaPrade Medical Cannabis Commission remains valid and stands as authorized by the Maryland Cannabis Administration.

D. Except as otherwise provided in this subtitle or Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland, a registration issued by the Natalie M. LaPrade Medical Cannabis Commission shall be valid until the stated expiration date for each:

(1) Patient or caregiver;

(2) Certifying provider;

(3) Clinical director;

(4) Agent;

(5) Independent testing laboratory; and

(6) Other ancillary business registrations.

E. This subtitle shall be considered supplemental to the Maryland Medical Cannabis Commission regulations set forth in COMAR 10.62.01—10.62.37.

F. If any regulation in COMAR 10.62.01—10.62.37 conflicts or is inconsistent with any regulations in this subtitle, this subtitle prevails.

G. The Maryland Cannabis Administration may rescind, revoke, correct, or reissue any bulletin, final order, notice of violation, or formal changes issued by the Natalie M. LaPrade Medical Cannabis Commission.

.02 Single Supply Chain for Cannabis Products.

Except as otherwise provided in this subtitle, all cannabis grown, harvested, processed, transported, delivered, produced, manufactured, or sold in Maryland shall follow the regulations in this subtitle.

.03 Conversion of Medical Cannabis License.

A. This regulation applies to each licensee required to pay a conversion fee under Alcoholic Beverages and Cannabis Article, §36-403, Annotated Code of Maryland.

B. The conversion fee shall be based on the gross revenue of a licensee and calculated by the Administration using the State’s seed-to-sale tracking system for calendar year 2022.

C. Licensees choosing to convert their license shall, on or before July 1, 2023:

- (1) Pay the conversion fee as calculated by the Administration in full; or
- (2) Enter into a payment plan with the Administration.

D. The payment plan under §C(2) of this regulation shall establish:

- (1) The conversion fee as calculated by the Administration;
- (2) The exact payment amount required under each payment installment; and
- (3) Payment due dates as directed by the Administration for four equal payment installments over an 18-month period.

E. On or before January 1, 2025, a licensee shall pay the installment payment in full in accordance with §D of this regulation.

F. A licensee that does not meet a payment deadline is subject to:

- (1) An administrative hold on their ability to transfer cannabis or cannabis products to another licensee or distribute or dispense cannabis or cannabis products to a qualifying patient, registered caregiver, or consumer until payment is remitted to the Administration; and
- (2) After a period of 30 days, license suspension or revocation.

G. A converted license shall be valid for a period of 5 years, beginning on July 1, 2023.

H. A converted license is not transferrable prior to July 1, 2028, except as provided under Alcoholic Beverages and Cannabis Article, §36-503, Annotated Code of Maryland.

I. A licensee may not register with the State Department of Assessment and Taxation using a legal name that:

- (1) Uses the terms “cannabis”, “marijuana”, or other synonym related to controlled substances;
- (2) Suggests the use of cannabis as an intoxicant; or
- (3) Incorporates any copyrighted material or trademark or service mark attributable to another entity.

14.17.03 Social Equity

Authority: Alcoholic Beverages and Cannabis Article, §1-309.1, Annotated Code of Maryland

.01 Scope.

A. This chapter applies to the Office of Social Equity, an independent office that functions within the Maryland Cannabis Administration, whose mission is to promote and encourage participation in the regulated cannabis industry by people from communities that have previously been disproportionately impacted by the war on drugs.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated:

B. Terms Defined.

(1) “Operational cannabis licensee” means a licensee that was operational prior to October 1, 2022.

(2) “Qualifying partnership” means a meaningful partnership between a social equity licensee and an operational cannabis licensee that supports or advises the social equity licensee.

.03 Social Equity Partnership Grant Program.

A. The Social Equity Partnership Grant Program shall promote qualifying partnerships between operational cannabis licensees and social equity licensees.

B. The Office of Social Equity shall implement and administer the grant program, including approving qualifying partnerships.

C. The Office of Social Equity may approve a qualifying partnership where a cost or other fee is imposed by an operational cannabis licensee, if the cost or other fee is substantially reduced from the market value.

D. If an operational cannabis licensee has a license that was converted under Alcoholic Beverages and Cannabis Article, §36-401(b)(1)(ii), Annotated Code of Maryland, the total amount of any grant issued to the licensee may not exceed the lesser of:

- (1) The cost of the conversion fee that was paid by the licensee; or
- (2) \$250,000 per year per qualifying partnership.

E. Qualifying partnerships under this regulation may not:

(1) Explicitly or implicitly transfer, including through convertible debt, any ownership or control from the social equity licensee to the operational cannabis licensee;

(2) Require the social equity business to conform with any branding, messaging, standard operating procedures, or other infringement on the social equity licensees’ operations; or

(3) Otherwise restrict, hinder, exploit, or unfairly treat the social equity licensee to benefit the operational cannabis licensee.

F. In addition to any other applicable penalties established in this subtitle and COMAR 10.62, including suspending, fining, restricting, or revoking a license, an operational cannabis licensee found in violation of §E of this regulation may be subject to any of the following sanctions:

- (1) Restriction, revocation, or invalidation of any qualifying partnership approved by the Office of Social Equity;
- (2) Rescission or invalidation of any attempted transfer of ownership or control; or
- (3) Repayment of any grant funding received by the operational cannabis licensee.

.04 Reporting Requirements.

Within 30 days of a written request, a cannabis licensee shall provide any data and information required by the Office of Social Equity to:

A. Complete statutorily mandated reports;

B. Evaluate the diversity and equity of ownership, management, employment, and contracted goods and services in the legal cannabis economy in Maryland; and

C. Operate and evaluate the Social Equity Partnership Grant Program.

14.17.04 Medical Cannabis Program

Authority: Alcoholic Beverages and Cannabis Article, §§36-201, 36-301, 36-302, 36-410, and 36-601, Annotated Code of Maryland

.01 Certifying Providers.

A. The Administration shall register a certifying provider in accordance with COMAR 10.62.03.

B. Action Against a Provider:

(1) After a written notice and a hearing in accordance with COMAR 14.17.22 if such hearing is properly requested, the Administration may deny a certifying provider's application for registration, or revoke registration to certify if the provider:

- (a) Fraudulently applies for approval;*
- (b) Fraudulently issues a written certification; or*
- (c) Fails to comply with this chapter.*

(2) The Administration shall report any finding to the State licensing board of the provider and may refer any allegation of fraud or conduct that threatens public health by a certifying provider.

.02 Patient and Caregiver Registry.

The Administration shall maintain a registry of qualifying patients and caregivers in accordance with COMAR 10.62.04.

.03 Written Certification.

A. A certifying provider shall issue a written certification in accordance with COMAR 10.62.05.01.

B. A written certification shall be renewed in accordance with COMAR 10.62.05.02.

.04 Patient and Caregiver Identification Cards.

A. The Administration shall issue patient identification cards in accordance with COMAR 10.62.06.01.

B. The Administration shall issue caregiver identification cards in accordance with COMAR 10.62.06.02.

C. Renewal, replacement, revocation, confiscation, and modification to patient and caregiver identification cards shall be done in accordance with COMAR 10.62.06.03—10.62.06.07.

D. A qualifying patient and registered caregiver shall pay the fees associated with registration under COMAR 14.17.21.

.05 Product Reservation for Qualifying Patients.

A dispensary may only sell or dispense high potency products to a qualified patient or registered caregiver, as specified in COMAR 14.17.13.03.

.06 Accommodations for Qualifying Patients.

A. A standard cannabis dispensary licensed under COMAR 14.17.06.08 shall:

(1) Provide exclusive access to the licensed premises to qualifying patients and registered caregivers for at least one hour per day that the dispensary is operational or a dedicated service line to serve only qualifying patients and caregivers for the duration of the licensed premises' operating hours;

(2) Conspicuously display information about the reserved hours or dedicated service line for qualifying patients and registered caregivers, whichever is applicable on:

- (a) The front of the licensed premises; and*
- (b) If applicable, the licensed dispensary's social media accounts and public-facing website.*
- (3) If providing reserved hours, maintain a consistent schedule.*

B. A standard cannabis dispensary may offer additional time and accommodation for qualifying patients and registered caregivers beyond the requirements in §A of this regulation, including reserving for qualifying and registered caregivers:

- (1) Priority access to the dispensary service area; and*
- (2) Parking spaces near the entrance of the dispensary, if applicable.*

.07 Compassionate Use Fund.

A. The purpose of the Compassionate Use Fund is to reduce the cost of obtaining a medical assessment to determine the appropriateness of treatment with cannabis or reduce the cost of medical cannabis for individuals enrolled in the Maryland Medical Assistance Program or in the Veterans Affairs Maryland Health Care System.

B. The Administration shall, in consultation with the Cannabis Public Health Advisory Council, certifying providers, cannabis licensees, and qualifying patients, develop regulations to implement the Compassionate Use Fund program in accordance with Alcoholic Beverages and Cannabis Article, §36-601, Annotated Code of Maryland.

.08 New Condition Approval Process.

A. The Administration shall consider a petition to add a medical condition, medical treatment, or disease for approved medical cannabis use in accordance with COMAR 10.62.07.

B. The Administration may refer a petition for consideration to the:

- (1) Cannabis Public Health Advisory Council; or*
- (2) Advisory Board on Medical and Adult-use Cannabis.*

C. If the Advisory Council or the Advisory Board on Medical and Adult-use Cannabis considers a petition to add a medical condition, treatment, or disease for approved medical cannabis use, the Advisory Council or the Advisory Board on Medical and Adult-use Cannabis shall study and make recommendations to the Administration on whether to approve or deny the petition.

.09 Clinical Directors.

A. A licensed dispensary shall appoint at least one individual to function as clinical director who:

- (1) Is eligible to serve as a certifying provider, as defined in COMAR 14.17.01;
- (2) Is a licensed pharmacist in good standing with the State Board of Pharmacy; or
- (3) Has substantial education, training, and experience in the medical use of cannabis, as determined by the Administration and is a:
 - (a) Registered nurse in good standing with the State Board of Nursing; or
 - (b) Licensed naturopathic doctor in good standing with the State Board of Physicians.

B. During the hours of operation, a licensed dispensary shall have a clinical director:

- (1) On-site; or
- (2) Available via electronic communication.

C. A clinical director shall:

- (1) Register as a clinical director with the Administration;
- (2) Complete at least one training course each year that is approved by the Administration, which includes:
 - (a) The latest scientific research on medical cannabis;
 - (b) The risks and benefits of medical cannabis; and
 - (c) Other information considered necessary by the Administration;
- (3) Educate qualifying patients and caregivers on:

(a) Treatment of the qualifying patient's medical condition with medical cannabis;

(b) Potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, non-prescription drugs, and supplements;

- (c) Possible side effects or contraindications of medical cannabis use;
- (d) The potential for differing strengths and effects of medical cannabis strains; and
- (e) Different methods, forms, and routes of medical cannabis administration.

(4) Provide training to dispensary agents on:

(a) Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical cannabis;

(b) Recognizing signs and symptoms of substance abuse; and

(c) Guidelines for refusing to provide medical cannabis to an individual who appears to be under the influence of drugs or alcohol.

D. A clinical director for a licensed dispensary may not provide a written certification for medical cannabis to any qualifying patient.

.10 Tax Exemption of Medical Cannabis.

Medical cannabis sold to qualifying patients or registered caregivers under this chapter shall be exempt from any sales and use tax assessment.

14.17.05 Application Process and Issuance of Licenses

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-401, 36-505, and 36-404, Annotated Code of Maryland

.01 Scope.

This chapter applies to the distribution of any cannabis licenses through a lottery system, including a:

- (1) Standard grower license;
- (2) Standard processor license;
- (3) Standard dispensary license;
- (4) Micro grower license;
- (5) Micro processor license;
- (6) Micro dispensary license;
- (7) On-site consumption establishment license; and
- (8) Incubator space license.

.02 Application Requirements.

A. An applicant shall submit an application to the Administration for a license.

B. A submitted application shall conform with the requirements established under Alcoholic Beverages and Cannabis Article, §36-404, Annotated Code of Maryland.

C. An application shall be:

- (1) Completed on a form designated by the Administration; and
- (2) Accompanied by the application fee as specified in COMAR 14.17.21.

D. An applicant, including any individual or entity that holds an ownership interest in or control of the applicant, may only be listed on:

- (1) One application per license type per application round; and
- (2) Two applications for any license type per application round.

E. Any applicant that violates §D of this regulation may not be considered by the Administration for licensure.

F. The Administration may not require an applicant to possess or own any property or facility to operate a cannabis business at the time of the application.

G. The Administration may verify an applicant's status as a social equity applicant prior to the initial application and licensure.

H. Any information an applicant submits in support of their social equity status in §G of this regulation is considered part of the application and is subject to verification by the Administration.

.03 Application Notification, Submission, and Review.

A. The Administration shall announce an application round at least 60 days prior to the acceptance of applications. The announcement shall include:

- (1) Types of licenses available during the licensing round;
- (2) Number of licenses available by license type;
- (3) Beginning and closing day of the application period; and
- (4) Any regional, jurisdictional, or other geographical considerations in the licensing round.

B. The Administration shall accept applications for a period of 30 calendar days.

C. The Administration shall conduct extensive outreach to small, minority, and women business owners and potential social equity applicants prior to accepting applications.

D. Upon the closing of any application period, the Administration shall announce the number of applications submitted and the maximum number of licenses that may be awarded within each license category and pool of applications.

E. Application Review.

(1) The burden of proving an applicant's qualifications rests on the applicant.

(2) The Administration may:

(a) Deny an application that:

- (i) Is not complete in every material detail;
- (ii) Contains a material misstatement, omission, misrepresentation, or untruth;
- (iii) Does not meet the minimum qualifications for the lottery; or
- (iv) Is not submitted by the established deadline; and

(b) Request any additional information from any applicant, if it deems the information necessary to review or process the application;

and

(c) If the applicant does not provide the additional requested information within 10 calendar days, deny the application.

(3) The Administration shall determine whether a submitted application meets the minimum qualifications for the lottery on a pass-fail basis by reviewing:

(a) A detailed operational plan for the safe, secure, and effective operation of the business;

(b) A business plan demonstrating a likelihood of success and sufficient ability and experience on the part of the applicant, and providing for appropriate employee working conditions;

(c) A detailed diversity plan; and

(d) For the first round of licensing and otherwise as required under Alcoholic Beverages and Cannabis Article, §36-404, Annotated Code of Maryland, for any subsequent round of licensing, documentation that the applicant meets the requirements of a social equity applicant.

F. Minimum qualifications in §E(3) of this regulation shall be established by the Administration and communicated to prospective applicants prior to the application period.

G. The Administration may award fewer licenses than authorized under law in any licensing round.

H. The Administration may require an applicant, or any individual or entity that holds an ownership interest in or control of the applicant, to complete an attestation demonstrating the applicant meets the requirements for award established in Alcoholic Beverages and Cannabis Article, Title 36, Subtitle 4, Annotated Code of Maryland.

.04 Lottery Award and Conditional License.

A. Lottery.

(1) The Administration shall conduct a lottery that is impartial, random, and in a format selected by the Administration.

(2) Any applicant that meets the minimum qualifications for licensing shall be placed in the lottery.

(3) Subsequent to the lottery, the Administration shall notify all applicants of whether their application was selected in the lottery.

(4) The Administration may request any additional information or supporting documentation from an applicant selected in the lottery necessary to verify aspects of the application, including but not limited to additional information and supporting documentation related to the ownership and control of the applicant.

(5) The Administration may deny issuing a conditional license to an applicant selected in the lottery if:

(a) The applicant fails to provide any additional information or supporting documentation requested pursuant to §A(4) of this regulation within 10 calendar days;

(b) Any additional information or supporting documentation submitted by the applicant demonstrates the applicant is not eligible for a license under this subtitle or Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland; or

(c) The Administration determines that the applicant violated COMAR 14.17.05.02D.

(6) The Administration shall notify an applicant who has been awarded a conditional license within 5 calendar days of the award.

B. Conditional License.

(1) A conditional licensee shall complete a supplemental license application.

(2) A supplemental license application shall require a conditional licensee to:

(a) Undergo a criminal history records check in accordance with Alcoholic Beverages and Cannabis Article, §36-505, Annotated Code of Maryland;

(b) Complete a financial background investigation conducted by the Administration;

(c) Verify any information or supporting documentation provided in the application;

(d) Disclose any adverse action taken against a professional or business license held in any jurisdiction by the applicant or any individual or entity holding an ownership interest in the applicant;

(e) Waive any contractual, statutory, or common law obligation of confidentiality and authorize any government agency in any jurisdiction to release to the Administration all information the conditional licensee has provided to any other jurisdiction while seeking a cannabis-related license in that other jurisdiction, as well as the information obtained by that other jurisdiction during any investigation it may have conducted regarding the applicant; and

(f) Release all financial institutions, fiduciaries, and other parties from any contractual, statutory, or common law obligation of confidentiality to provide financial, personal and background information relevant to the conditional licensee's capacity to manage a licensed

facility; and

(g) Identify and demonstrate legal control of the proposed site, through lease, purchase, or other means, for the cannabis business.

C. Any conditional license not awarded due to circumstances in §A of this regulation may be awarded by lottery using the same pool of applicants as the initially selected application.

.05 Issuance of a License or Rescission of a Conditional License.

A. Conditional License Period.

(1) The conditional license period:

(a) Begins on the day that a conditional license is issued to the selected applicant; and

(b) Expires 18 months after the day that conditional license was issued or at the end of an extension granted by the Administration.

(2) A conditional licensee may apply for an extension of the conditional license.

(3) The Administration may approve a one-time extension of up to 6 months, if the Administration determines the conditional licensee has made consistent good faith efforts to establish a cannabis business.

(4) During the conditional license period, a conditional licensee shall:

(a) Complete a supplemental license application;

(b) Establish legal control of the proposed site, through lease, purchase, or other means, for the cannabis business;

(c) Gain zoning or planning approval from a political subdivision, if applicable; and

(d) Register the business with the State Department of Assessment and Taxation

(5) During a conditional license period, a conditional licensee may not:

(a) Engage in purchasing, possessing, cultivating, manufacturing, or selling cannabis or cannabis products;

(b) Make any transfer of an ownership interest that causes a change in the individual or entity that holds the controlling ownership interest;

(c) Make any transfer of control, as defined in COMAR 14.17.01; and

(d) If the conditional licensee qualified as a social equity applicant, make any transfer of an ownership interest that causes the conditional licensee to no longer comply with the social equity applicant definition in COMAR 14.17.01.

(6) During a conditional license period, a conditional licensee may obtain additional resources by adding:

(a) Grants and loans from new or existing financial sources not listed in the initial application; and

(b) Owners and passive investors.

(7) Any additional resources obtained by a conditional licensee made under §A(6) of this regulation may not violate this subtitle or Alcoholic Beverages and Cannabis Article, Title 36, Subtitle 4, Annotated Code of Maryland.

B. Rescission of a Conditional License. The Administration may rescind a conditional license if a conditional licensee, or any individual or entity included in the supplemental license application:

(1) Has been convicted of or pleaded nolo contendere to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have conviction or plea set aside;

(2) Fraudulently or deceptively attempts to obtain a license;

(3) Is ineligible to hold an ownership interest in or control of a business licensed under Alcoholic Beverages and Cannabis Article, Title 36, Subtitle 4, Annotated Code of Maryland;

(4) Fails to reveal any material fact pertaining to the conditional licensee's qualification for a license;

(5) Fails to submit a complete supplemental license application;

(6) Fails to become licensed and operational within:

(a) 18 months after the day the conditional license was issued; or

(b) If granted an extension, the day after the expiration of any extension granted by the Administration.

(7) Violates §A(5) of this regulation;

(8) Is not registered or in good standing with the State Department of Assessment and Taxation; or

(9) Has taxes in arrears in any jurisdiction.

C. The Administration may award a license on a determination that:

(1) The conditional licensee has submitted a complete supplemental license application;

(2) The supplemental license application, including any individual or entity included in the application, does not violate §B of this regulation;

(3) The license fee specified in COMAR 14.17.21 has been paid;

(4) All inspections are passed, and all the conditional licensee's operations conform to the specifications of the application as approved pursuant to this chapter; and

(5) The proposed premises:

(a) Are under the legal control of the conditional licensee; and

(b) Comply with all zoning and planning requirements.

D. A licensed business may not grow, process, distribute, dispense, or otherwise begin business operations without approval of written documentation under §C of this regulation by the Administration.

E. The Administration may not award a license to a business who has registered with the State Department of Assessment and Taxation using a legal name that:

(1) Uses the terms "cannabis", "marijuana", or other synonym related to controlled substances;

(2) Suggests the use of cannabis as an intoxicant; or

(3) Incorporates any copyrighted material or trademark or service mark attributable to another entity.

F. The Administration may suspend, fine, restrict, or revoke a license if a licensee has:

(1) Fraudulently or deceptively submitted written documentation to the Administration;

(2) Violated Alcoholic Beverages and Cannabis Article, Title 36, Subtitle 11, Annotated Code of Maryland; or

(3) Began operations prior to Administration approval.

.06 Application Retention.

A. Upon notification that an applicant was not selected by the lottery, the applicant may request the Administration retain the application for subsequent licensure application rounds.

B. The Administration shall retain any application requested for retention by the applicant for a period of one year.

C. The Administration may contact an applicant with a retained application for any additional information required for subsequent licensing rounds.

D. Any application retained by the Administration that meets the specifications and requirements of a subsequent licensing round within the one-year retention period shall be automatically entered into the lottery if:

(1) The applicant has properly amended the application if requested by the Administration under §C of this regulation; and

(2) Any additional information requested by the Administration has been updated.

E. The Administration may not enter a retained application into a subsequent lottery round if:

(1) Any individual included in the application is associated with additional applications in the licensing round that exceed the restrictions in COMAR 14.17.05.02D;

(2) Any individual included in the application is in violation of ownership restrictions under COMAR 14.17.16, or the awarding of a license would place the individual in violation of ownership restrictions under COMAR 14.17.16; and

(3) Any individual associated with the application has been found to be in violation of the Alcoholic Beverages and Cannabis Article, Title 36, Subtitle 11, Annotated Code of Maryland.

.07 Hearing Rights of Applicants.

A. Records Review.

(1) An applicant not entered into the lottery by the Administration may request a records review of the submitted application within 10 days of notification that their application does not meet the minimum qualifications for the lottery on a pass-fail basis.

(2) A records review shall consist of an opportunity for the applicant to examine the applicant's records received by the Administration and verify the basis on which the application was deemed ineligible for the lottery.

(3) No applicant may gain access to records submitted by any other applicant through the records review process.

B. A selected applicant or an applicant who applies pursuant to COMAR 14.17.05.06 who subsequently has their application denied by the Administration or a conditional licensee who has their conditional license rescinded pursuant to Regulation .05B of this chapter may request a hearing under COMAR 14.17.22.

C. An applicant who meets the minimum qualifications for the lottery, but is not selected in the lottery, may not appeal or request a hearing. The application shall be retained by the Administration in accordance with Regulation .06 of this chapter.

.08 Lottery Exemption.

A. *Pigford v. Glickman Class Members.*

(1) The Administration may issue up to five conditional grower licenses to recognized class members of *Pigford v. Glickman*, 185 32 F.R.D. 82 (D.D.C. 1999), or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011) who:

(a) Were awarded damages related to farming operations in Maryland;

(b) Have provided evidence to the Administration that they have not been fully compensated for discrimination and continue to experience challenges due to past or present discrimination; and

(c) Meet all other application criteria established by the Administration under this chapter.

(2) If there are more qualified applications than the number of licenses available, the Administration shall conduct a lottery for all applicants that meet the minimum qualifications for licensing established under §A(1) of this regulation.

(3) Notwithstanding any other provision of law, a license issued under this regulation is in addition to and not subject to the limitations on the total number of licenses that the Administration may issue under Alcoholic Beverages and Cannabis Article, Title 36, Subtitle 4, Annotated Code of Maryland.

B. A business awarded a grower license pursuant to Chapter 598 of the Acts of the General Assembly of 2018 may be awarded a standard dispensary license, if the grower:

(1) Submits an application that meets the minimum qualifications for a standard dispensary license, as determined by the Administration; and

(2) Including any individual or entity that holds an ownership interest in or control of the grower, does not own or control a cannabis dispensary license.

14.17.06 Standard Cannabis Licenses

Authority: Alcoholic Beverages and Cannabis Article, §§36-202—203, 36-401, 36-405, 36-406, 36-407, 36-503, and 36-802, Annotated Code of Maryland

.01 Scope.

This chapter applies to all standard cannabis licenses, including:

A. Standard grower, processor, and dispensary licenses authorized under Alcoholic Beverages and Cannabis Article, §36-401(c)(1), Annotated Code of Maryland;

B. Converted licenses under Alcoholic Beverages and Cannabis Article, §36-403, Annotated Code of Maryland;

C. Converted micro licenses under COMAR 14.17.07.08;

D. Incubator space licenses, authorized under Alcoholic Beverages and Cannabis Article, §36-406, Annotated Code of Maryland; and

E. On-site consumption licenses, authorized under Alcoholic Beverages and Cannabis Article, §36-407, Annotated Code of Maryland.

.02 Term of License and License Renewal.

A. Licenses converted under Alcoholic Beverages and Cannabis Article, §36-403, Annotated Code of Maryland, are valid for 5 years from the date of the initial conversion fee payment to the Administration.

B. As a condition of licensure, a licensee shall comply with all subregulatory guidance issued by the Administration, including but not limited to bulletins, notices, resolutions, and technical authorities posted to the Administration's website.

C. A cannabis license under this chapter is valid for:

- (1) 5 years on initial licensure; and
- (2) 5 years on renewal.

D. At least 90 calendar days before the expiration of a license, the Administration shall notify the licensee of the:

- (1) Date on which the license expires;
- (2) Process and the fee required to renew the license; and
- (3) Consequences of a failure to renew the license.

E. At least 30 calendar days before a license expires, a licensee seeking approval shall submit:

- (1) The renewal application in the form designated by the Administration;
- (2) Proof that fingerprints have been submitted to Criminal Justice Information System and the Federal Bureau of Investigation for each agent and any owner with an ownership interest of 5 percent or more;
- (3) To a full inspection of the licensed premises as described in COMAR 10.62.33, unless a full inspection was satisfactorily completed within 3 months before the date of the license expiration; and
- (4) Payment of the fee specified in COMAR 14.17.21.

F. The Administration may renew a license that meets the requirements for renewal as stated in §E of this regulation.

G. If a licensee fails the inspection or submits a deficient application for renewal, the licensee may apply for reinstatement by:

- (1) Submitting a plan to correct the deficiencies noted during an inspection; and
- (2) Amending the application for renewal.

H. The Administration may deny a license renewal if:

- (1) The plan to correct deficiencies identified in an inspection is deficient;
- (2) The amended application for renewal is deficient; or
- (3) The licensee is repeatedly found in violation of health and safety regulations during the license period.

I. A licensee who fails to apply for license renewal by the date specified by the Administration, or whose license was not renewed by the Administration:

- (1) Shall cease operations at all premises; and
- (2) May not provide cannabis to any entity or individual.

J. A license may be reinstated upon:

- (1) Payment of the reinstatement fee specified in COMAR 14.17.21; and
- (2) Submission of a reinstatement application approved by the Administration.

.03 Change of Location.

A. A licensee may apply to change the location of the licensee's operation.

B. The licensee shall submit an application to the Administration along with the fee specified in COMAR 14.17.21.

C. A licensee may not begin cultivation, processing or dispensing of cannabis at a new location until the Administration approves the change.

D. A dispensary may only change location within the county that the dispensary was awarded a license.

.04 Transfer of Ownership Interest in a License.

A. A cannabis licensee, including a cannabis licensee whose license was converted in accordance with Alcoholic Beverages and Cannabis Article, §36-401, Annotated Code of Maryland, may not transfer ownership of the license prior to July 1, 2028, except as provided under Alcoholic Beverages and Cannabis Article, §36-503, Annotated Code of Maryland.

B. The acquisition of less than 5 percent of a publicly traded stock does not require review and approval by the Administration.

C. The Administration may approve a transfer or assignment of ownership if:

- (1) The Administration receives notice of the intent of the owner of the interest, or of the estate of the owner of the interest, to transfer or assign an ownership interest in a license to another party, in a form prescribed by the Administration;
- (2) The proposed transfer does not violate Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland;
- (3) The transferee has paid the required fee specified in COMAR 14.17.21; and
- (4) If the ownership interest is 5 percent or more, the transferee has provided criminal history record and financial information to the Administration.

D. The Administration shall deny transfer of an interest for any proposed transferee:

- (1) If the transferee has been convicted of or pleaded nolo contendere to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (2) If the payment of taxes due in any jurisdiction is in arrears;
- (3) If the transfer violates COMAR 14.17.16; or
- (4) If the transfer would convey a controlling interest in the license prior to July 1, 2028, and is not proposed due to death, disability, incapacity, bankruptcy or receivership in accordance with a lending agreement of a cannabis licensee or court order.

E. The Administration may deny transfer of a controlling interest in a license or in an ownership interest of 5 percent or more if the Administration finds good cause to deny the proposed transfer.

F. Any individual or entity identified as having ownership or control of a license may not hold an ownership interest that exceeds the limitations set forth in Alcoholic Beverages and Cannabis Article, §36-401(e), Annotated Code of Maryland.

G. If the Administration approves a transfer of an ownership interest of a license and subsequently the Administration finds that such a transfer violates State, local, or federal law, the Administration may:

- (1) Issue a fine against any parties involved in the transfer;
- (2) Declare the transfer void; and
- (3) Rescind the license.

.05 Management Agreements.

- A. A licensee shall provide a copy of a management agreement to the Administration and include:
- (1) Information detailing any compensation paid in exchange for the management services;
 - (2) Criminal history record and financial information of the third party providing the management services; and
 - (3) Any other information relevant to the management agreement requested by the Administration.
- B. A management agreement may not take effect unless the Administration has:
- (1) Received proper notice of the management agreement, as specified in §A of this regulation;
 - (2) Received the required fee specified in COMAR 14.17.21; and
 - (3) Approved the management agreement.
- C. The Administration may deny a management agreement:
- (1) If the management agreement constitutes an invalid transfer of an ownership interest in or control of a license, as specified in Regulation .04 of this chapter;
 - (2) If the criminal history record information or the background investigation reveals the third party providing the management services has been convicted of or pleaded nolo contendere to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
 - (3) If the management service agreement transfers control of a license in violation of Alcoholic Beverages and Cannabis Article, §36-503, Annotated Code of Maryland;
 - (4) If the licensee fails to produce additional documentation requested by the Administration; or
 - (5) For any other good cause.
- D. In the case of material change to a management agreement, including but not limited to a change of ownership or control of the management company, the licensee shall:
- (1) Provide any relevant records, files, or information to the Administration; and
 - (2) Receive Administration approval prior to the material change to the management agreement taking effect.

.06 Standard Grower License.

- A. A standard cannabis grower license authorizes the licensee to:
- (1) Cultivate or package cannabis; and
 - (2) Provide cannabis, or usable cannabis, to other licensees and other registered independent testing laboratories.
- B. The canopy for a standard licensed grower may not exceed the canopy restrictions as established in Alcoholic Beverages and Cannabis Article, §36-402, Annotated Code of Maryland.
- C. On or before October 1 of each year licensed growers shall report to the Administration the square footage of indoor and outdoor canopy as defined in COMAR 14.17.01. The Administration may:
- (1) Inspect the licensed premise to verify the licensed grower's annual submission of canopy square footage; and
 - (2) Restrict, reduce, fine or otherwise sanction any licensed grower who misrepresents canopy square footage.
- D. For any licensed grower found in violation of §B of this regulation, the Administration may:
- (1) Reduce the canopy of the licensed grower by the same percentage as it exceeds the authorized canopy; and
 - (2) Seize, destroy, confiscate, or place an administrative hold on any flowering cannabis plants produced in the excess of the canopy restrictions.
- E. For the purposes of calculating canopy under §§B—D of this regulation, canopy that is rented, leased, operated, or otherwise controlled by a licensed grower other than its owner shall only be attributed to the licensed grower in control of the square footage.
- F. For the purposes of calculating canopy under §§B—D of this regulation, one square foot of indoor canopy is equal to four square feet of outdoor canopy.
- G. A grower licensed under this regulation shall operate in accordance with COMAR 14.17.10.

.07 Standard Processor License.

- A. A standard cannabis processor license authorizes the licensee to:
- (1) Transform cannabis into another product or an extract and package and label the cannabis product; and
 - (2) Provide cannabis to licensed dispensaries and independent testing laboratories.
- B. A processor licensed under this regulation shall operate in accordance with COMAR 14.17.11.

.08 Standard Dispensary License.

- A. A standard cannabis dispensary license authorizes the licensee operating a store at a physical location to acquire, possess, sell, or dispense cannabis products and related materials in accordance with the Alcoholic Beverages and Cannabis Article, §36-401(c)(1), Annotated Code of Maryland, including for use by qualifying patients or consumers through a physical storefront.
- B. After July 1, 2024, a standard dispensary licensee may not operate a delivery service as defined in COMAR 14.17.01, unless the standard licensee:
- (1) Has a qualifying partnership with a micro dispensary licensee under the Alcoholic Beverages and Cannabis Article, §1-323, Annotated Code of Maryland, to conduct delivery services on behalf of the licensed dispensary; or
 - (2) Otherwise partners or contracts with a micro dispensary licensee to conduct delivery services for the licensed dispensary.
- C. Prior to July 1, 2024, a standard dispensary licensee is authorized to deliver medical cannabis to qualifying patients and caregivers only as specified in COMAR 10.62.30.04.
- D. It is a violation of §C of this regulation to:

- (1) Deliver adult-use cannabis to consumers;
- (2) Not verify the delivery recipient is a qualifying patient or registered caregiver;
- (3) Deliver an amount that exceeds the qualifying patient or registered caregiver's 30-day supply;
- (4) Use a vehicle that otherwise violates COMAR 10.62.18.06.

E. Any delivery conducted from July 1, 2023 through June 30, 2024 under this regulation shall otherwise comply with COMAR 14.17.12.03.

F. A dispensary licensed under this regulation shall operate in accordance with COMAR 14.17.12.

.09 Incubator Space License.

A. A cannabis incubator space license authorizes the licensee to operate a facility within which a micro licensee may operate in accordance with Alcoholic Beverages and Cannabis Article, §36-406, Annotated Code of Maryland.

B. Any individual with ownership or control of an incubator space license may not have any ownership or control any other cannabis license type.

C. Prior to the issuance of incubator space licenses, the Maryland Economic Development Corporation shall identify regional sites in accordance with Section 13 of Chapters 254 and 255 (H.B. 556)(S.B.516) of the Acts of 2023.

.10 On-Site Consumption License.

A. An on-site consumption establishment license authorizes the licensee to operate a licensed premises in which cannabis may be consumed in accordance with Alcoholic Beverages and Cannabis Article, §36-407, Annotated Code of Maryland.

B. An on-site consumption establishment may operate only if the county and, if applicable, the municipality, where the business is located have issued a permit or license that expressly allows the operation of the on-site consumption establishment subject to the limitations in the Alcoholic Beverages and Cannabis Article, §36-405, Annotated Code of Maryland.

C. An on-site consumption license does not authorize the holder of the license to:

- (1) Cultivate cannabis;
- (2) Process cannabis or cannabis-infused products; or
- (3) Add cannabis to food prepared or served on the premises.

D. Any individual or entity who holds an ownership interest in or control of an on-site consumption license may not have any ownership interest or control in any other cannabis license.

E. An on-site consumption establishment may apply to change the location of the licensee's operation.

F. The on-site consumption establishment shall submit an application to the Administration along with the fee specified in COMAR 14.17.21.

G. The application shall include documentation:

- (1) Of approval from the jurisdiction where the licensee plans to relocate; and
- (2) That the proposed premises:
 - (a) Is under legal control of the applicant; and
 - (b) Comply with all zoning and planning requirements.

H. The Administration may not award licenses for on-site consumption establishments prior to May 1, 2024.

I. No other cannabis licensee may authorize or permit on-site consumption at the licensed premise, or at any space owned or controlled by the licensee.

J. Prior to operating a facility where the consumption of cannabis is permitted on the premises, a person shall obtain an on-site consumption licensed.

K. An on-site consumption establishment may obtain cannabis and cannabis products from licensed growers, processors and standard dispensaries.

14.17.07 Micro Licenses

Authority: Alcoholic Beverages and Cannabis Article, §§36-202—203, 36-401, and 36-503, Annotated Code of Maryland

.01 Scope.

This chapter applies to all micro licenses authorized under the Alcoholic Beverages and Cannabis Article, §36-401(c)(2), Annotated Code of Maryland.

.02 Term of License and License Renewal.

A. In addition to §§B—D of this regulation, terms of license and license renewal for micro licenses are as established in COMAR 14.17.06.02B—J.

B. A micro licensee may not exceed growing, processing or dispensing operational restrictions set forth in the Alcoholic Beverages and Cannabis Article, §36-401(c)(2), Annotated Code of Maryland.

C. The Administration may verify compliance with the operational restrictions under §B of this regulation within the first 24 months of a micro licensee's operations by:

- (1) For growers, measuring and inspecting the canopy owned or otherwise controlled by the licensed micro grower;
- (2) For processors, querying the seed-to-sale tracking system for the prior 12 months of operations; and
- (3) For dispensaries, investigating or otherwise verifying that the licensee:
 - (a) Operates only within authorized service area;
 - (b) Employs fewer than ten individuals; and
 - (c) Does not operate a physical storefront.

D. The Administration may restrict, reduce, fine, or otherwise sanction any micro licensee who is found to be in violation of §B of this regulation.

.03 Change of Location.

Change of location procedures and requirements are as established in COMAR 14.17.06.03.

.04 Transfer of Ownership Interest in a License.

Transfer of ownership interest requirements and procedures for micro licenses are established in COMAR 14.17.06.04.

.05 Micro Grower License.

A. A micro grower license authorizes the licensee to:

- (1) Cultivate or package cannabis; and
- (2) Provide cannabis to other licensees and other registered independent testing laboratories.

B. The canopy for a micro grower may not exceed the restrictions as established in the Alcoholic Beverages and Cannabis Article, §36-401(c)(2)(i), Annotated Code of Maryland.

C. On or before October 1 of each year, licensed growers shall report to the Administration the square footage of indoor and outdoor canopy as defined in COMAR 14.17.01.

D. The Administration may:

- (1) Inspect the licensed premise to verify the licensed grower's annual submission of canopy square footage; and
- (2) Restrict, reduce, fine, or otherwise sanction any licensed grower who misrepresents canopy square footage.

E. For any licensed grower found in violation of §B of this regulation, the Administration may:

- (1) Reduce the canopy of the licensed grower by the same percentage as it exceeds the authorized canopy; and
- (2) Seize, destroy, confiscate, or place an administrative hold on any flowering cannabis plants produced in the excess of the canopy.

F. For the purposes of calculating canopy under §§B—E of this regulation, canopy that is rented, leased, operated or otherwise controlled by one licensed grower to another licensed grower shall only be attributed to the licensed grower in control of the square footage.

G. A micro grower licensed under this regulation shall operate in accordance with COMAR 14.17.10.

H. A micro grower licensed under this regulation may convert to a standard grower license under COMAR 14.17.06.06 in accordance with Regulation .08 of this chapter.

.06 Micro Processor License.

A. A micro processor license authorizes the licensee to:

- (1) Transform cannabis into another product or an extract and package and label the cannabis product; and
- (2) Provide cannabis to licensed dispensaries and independent testing laboratories.

B. A micro processor licensed under this chapter may not exceed the restrictions as established in Alcoholic Beverages and Cannabis Article, §36-401(c)(2)(ii), Annotated Code of Maryland, for the processing of cannabis products.

C. A micro processor licensed under this regulation shall operate in accordance with COMAR 14.17.11.

D. A micro processor licensed under this regulation may convert to a standard processor license under COMAR 14.17.06.07 in accordance with Regulation .08 of this chapter.

.07 Micro Dispensary License.

A. A micro dispensary license authorizes the licensee to operate a delivery service as defined in COMAR 14.17.01.

B. A micro dispensary licensee may not:

- (1) Operate a physical storefront; or
- (2) Employ more than 10 individuals.

C. A micro dispensary licensed under this regulation shall only deliver cannabis products to private residences and medical facilities in the State of Maryland.

D. A micro dispensary licensed under this regulation shall operate in accordance with COMAR 14.17.12.

E. A micro dispensary licensed under this regulation may convert to a standard dispensary license under COMAR 14.17.06.08 in accordance with Regulation .08 of this chapter.

.08 Conversion to Standard License.

A. A micro licensee in good standing may apply to the Administration to convert to a standard license once it has been operational for at least 24 months, in a manner determined by the Administration.

B. The Administration may deny the micro licensee for conversion to a standard license if the micro licensee:

- (1) Has been operational for 24 or fewer months;
- (2) Has been found to violate any operational restrictions in Regulation .02B of this chapter;
- (3) Would be in violation of the ownership or control restrictions in COMAR 14.17.16;
- (4) Does not provide adequate notice to the Administration; or
- (5) For any other good cause determined by the Administration.

C. A micro license converted under §§A—B of this regulation to a standard license shall be valid through the date of the initial micro license.

D. Prior to the conversion of micro license to a standard license the licensee shall pay in full a pro-rated license fee.

E. The pro-rated license fee required under §D of this regulation shall be calculated by the Administration by:

(1) Subtracting any previous license fee paid for the valid micro license that is being converted into the standard license from the standard fee under COMAR 14.17.21; and

(2) Pro-rating the remaining license fee total by months remaining on the initial 5-year term of the micro license.

F. A micro license converted under this regulation:

(1) Shall be forfeited by the licensee as a condition of conversion and the Administration may award the forfeited license in a subsequent licensing round;

(2) Shall only be for the corresponding standard license type; and

(3) May not be converted to an incubator space license under COMAR 14.17.06.09 or on-site consumption license under COMAR 14.17.06.10.

G. The Administration shall reserve enough standard licenses, by license type, to allow a reasonable number of micro licenses to convert to a standard license.

14.17.08 Laboratory Registration and Operations

Authority: Alcoholic Beverages and Cannabis Article, §§36-202—204, and 36-408, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Accreditation body" means a nonprofit, impartial organization that requires conformance to 17025 ISO/IEC requirements and is a signatory to the international laboratory accreditation cooperation (ILAC) mutual recognition arrangement for testing.

(2) "Cannabis industry" means all cannabis registrants, licensees, and their agents in Maryland.

.02 Independent Testing Laboratory Registration.

An independent testing laboratory shall be registered by the Administration in accordance with COMAR 10.62.16.02.

.03 Standards of Care.

A. The independent testing laboratory shall:

(1) Follow the methodologies, ranges and parameters which are contained in the scope of the accreditation for testing cannabis or cannabis products;

(2) Establish standard operating procedures and method validation for testing that are approved by the accrediting body and the Administration;

(3) Require each independent testing laboratory employee to complete and execute an application for employment on a form provided by the Administration;

(4) Establish and follow written procedures for verifying the experience and education of laboratory employees;

(5) Submit the registration information for each independent testing laboratory employee within 15 days after the date the independent testing laboratory employee was hired;

(6) Upon termination of the independent testing laboratory's association with a registered independent testing laboratory employee:

(a) Obtain any keys or other entry devices from the terminated independent testing laboratory employee;

(b) Ensure the terminated independent laboratory employee can no longer gain access to the laboratory premises; and

(c) Within 1 business day of the termination of independent laboratory employee, notify the Administration of the termination;

(7) Notify the Administration within 1 business day after the independent testing laboratory obtains notice of any kind that its accreditation has been denied, suspended or revoked;

(8) The independent testing laboratory shall implement the testing requirements established in COMAR 10.62.15.04—.07 and COMAR 1062.23.03—.06 and identified in the Administration's current version of the technical authority for cannabis testing;

(9) Maintain a continuous or motion-activated video surveillance recording system that:

(a) Records all activity high quality and high resolution images capable of clearly revealing facial detail;

(b) Operates 24 hours a day, 365 days a year without interruption;

(c) Provides a date and time stamp for every recorded frame; and

(d) Captures activity at each area where cannabis is tested, disposed of, or stored;

(10) All recordings of security video surveillance shall be:

(a) Stored in a format that can be easily accessed for investigational purposes; and

(b) Retained for a minimum of 90 calendar days.

(11) Make any security video surveillance recording available to the Administration or law enforcement agency for just cause as requested within 48 hours.

B. Violation.

(1) Failure to provide the Administration with any video surveillance recording within 48 hours of a request from the Administration is a violation of COMAR 10.62.34.01.

(2) Each day of recording that a licensee fails to provide to the Administration, within the minimum of 90 calendar days that the recording shall be retained, constitutes a separate violation.

.04 Term and Renewal.

A. The registration is valid for 2 years.

B. An independent testing laboratory may renew its registration by submitting to the Administration:

(1) A copy of the independent testing laboratory registration form;

(2) Payment of the registration fee specified in COMAR 14.17.21; and

(3) Submission of copies of the most recent:

(a) Assessment from the accreditation body; and

(b) Proficiency testing results obtained by the independent testing laboratory.

.05 Independent Testing Laboratory Responsibilities.

A. An independent testing laboratory shall:

(1) Adopt standard operating procedures to test cannabis, cannabis concentrate, and any other product that contains more than 0.5 milligrams of THC per serving or 2.5 milligrams of THC per package that are approved by the accrediting body and the Administration;

(2) Perform testing of cannabis and cannabis products in accordance with approved standard operating procedures;

(3) Carry out all laboratory requirements and certificate of analysis procedures established in COMAR 10.62.15.04—.07 and COMAR 10.62.23.03—.06 .

B. No independent testing laboratory may handle, test, or analyze cannabis or cannabis products unless the independent testing laboratory:

- (1) Has been registered by the Administration;
- (2) Is independent from all other persons and entities involved in the cannabis industry;
- (3) Is accredited by an accreditation body or has a provisional registration from the Administration;

(4) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the independent testing laboratory for testing, which are approved by the Administration; and

- (5) Enters timely and accurate data into the seed-to-sale tracking system that identifies and tracks samples

C. An independent testing laboratory shall weigh, document, and destroy all green waste in accordance with a standard operating procedure approved by the Administration.

D. Upon request, in a format determined by the Administration, registered independent testing laboratories shall provide materials to the State Reference Laboratory to conduct the activities under Regulation .07B of this chapter.

.06 Transportation of Products Containing Cannabis.

A. A registered independent testing laboratory may transport samples of cannabis and products containing cannabis from the premises of a licensed grower, processor, or dispensary to the independent testing laboratory.

B. A registered independent testing laboratory shall transport samples of cannabis and products containing cannabis:

- (1) With oversight by at least one independent testing laboratory employee registered with the Administration; and
- (2) Using a vehicle that:
 - (a) Meets the criteria specified in COMAR 10.62.18.05—.06; and
 - (b) Is registered with the Administration.

.07 State Cannabis Testing Laboratory.

A. The Administration shall operate a State Cannabis Testing Laboratory under the Alcoholic Beverages and Cannabis Article, §36-204, Annotated Code of Maryland.

B. The Administration shall operate a State Cannabis Testing Laboratory to:

- (1) Prepare, conduct, and analyze proficiency testing events for independent testing laboratories registered under this chapter;
- (2) Develop cannabis testing methodologies;
- (3) Conduct compliance testing on cannabis samples;
- (4) Establish and verify standard operating procedures for independent testing laboratories;
- (5) Develop and facilitate quality assurance and compliance controls for micro growers and micro processors;
- (6) Remediate problems with registered independent testing laboratories and recommend Administration sanctions; and
- (7) Test products for adverse event reporting, research, and other purposes deemed necessary by the Administration, including:
 - (a) Licensed cannabis products produced and sold in accordance with this subtitle;
 - (b) Unlicensed cannabis products produced or sold in violation of this subtitle;
 - (c) Hemp derived products; and
 - (d) Any other products required to be tested for the public health or public safety of Maryland.

14.17.09 Other Cannabis Businesses

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, 36-401, and 36-409, Annotated Code of Maryland

.01 Scope.

This chapter applies to any registrant who conducts transportation, disposal, or security services for any cannabis licensee in Maryland.

.02 Registration of Ancillary Businesses and Security Guard Agencies.

Ancillary businesses and the transporters of cannabis shall be registered by the Administration in accordance with COMAR 10.62.18.07—10.62.18.09.

.03 Operations of Ancillary Businesses and Security Guard Agencies.

Operations of ancillary businesses and the transportation of cannabis shall be performed in accordance with COMAR 10.62.18.02—10.62.18.06 and any other State law.

.04 Delivery Service Operations.

A. Through June 30, 2024, a registered ancillary business for delivery may deliver medical cannabis only as specified in COMAR 10.62.30.04.

B. It is a violation of §A of this regulation to:

- (1) Deliver adult-use cannabis to consumers;
- (2) Not verify the delivery recipient is a qualifying patient or registered caregiver;
- (3) Deliver an amount that exceeds the qualifying patient or registered caregiver's 30-day supply; or
- (4) Use a vehicle that otherwise violates COMAR 10.62.18.06.

C. A delivery conducted under this regulation from July 1, 2023 through June 30, 2024 shall otherwise comply with COMAR 14.17.12.03.

D. Beginning July 1, 2024, a registered ancillary business for delivery may not deliver cannabis.

.05 Incubator Spaces.

A. An incubator space may provide one or more of the following:

- (1) Secure storage of cannabis or cannabis products for licensed micro dispensaries;

- (2) Commercial kitchen space for the processing and production of cannabis products by licensed micro processors; or
- (3) Space for the cultivation of cannabis by licensed micro growers.
- B. Incubator spaces shall comply with the requirements of COMAR 14.17.10, 14.17.11, and 14.17.12 for the:
 - (1) Security of the premises;
 - (2) Sanitation of any cannabis or cannabis product produced at the incubator space;
 - (3) Safety of any cannabis cultivated at the incubator space regarding the:
 - (a) Use of pesticides; and
 - (b) Use of the seed-to-sale tracking system.
- C. The incubator space licensee shall make a good faith effort to:
 - (1) Secure any cannabis, cannabis products, inventory, equipment, or other materials on the licensed premise; and
 - (2) Prevent theft or diversion of any cannabis, cannabis products, inventory, equipment, or other materials by license holders, agents, or members of the public.
- D. The incubator space licensee holder may assess a fair market rent for the use or storage of the facility.
- E. The incubator space licensee may not accept or receive any equity stake, ownership share, or control of a micro license facility as a condition of rent or use of the space.

14.17.10 Cannabis Grower Operations

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, 36-401, 36-402, and 36-410, Annotated Code of Maryland

.01 Scope.

- A. Unless otherwise specified this chapter applies to a business licensed to grow cannabis under COMAR 14.17.06.06 and 14.17.07.05.
- B. This chapter applies to all cannabis grown in Maryland intended for either adult-use or medical-use sales.

.02 Cannabis Grower Premises.

- A. A licensed grower facility shall:
 - (1) Be located within Maryland;
 - (2) Conform to local zoning and planning requirements; and
 - (3) Conspicuously display a grower license at the licensed premises.
- B. A licensed grower facility premises shall be secured in accordance with COMAR 10.62.10.04—10.62.10.08.
- C. A licensed grower facility containing greenhouse or field cultivation premises shall be secured in accordance with COMAR 10.62.10.03.
- D. A licensed grower facility may not make modifications or renovations:
 - (1) Without prior approval by the Maryland Cannabis Administration; and
 - (2) That increase a standard grower licensed capacity to greater than the canopy limits prescribed in Alcoholic Beverages and Cannabis Article, §36-402(b), Annotated Code of Maryland.
- E. Micro growers may not operate a facility greater than the limits established in Alcoholic Beverages and Cannabis Article, §36-401(c)(2)(i), Annotated Code of Maryland.

.03 Cannabis Grower Controls.

- A licensed grower facility shall:
 - A. Grow cannabis in accordance with COMAR 10.62.11;
 - B. Record inventory in accordance with COMAR 10.62.12; and
 - C. Implement quality controls in accordance with COMAR 10.62.15.

.04 Product Returned for Destruction and Disposal of Green Waste.

- A. A licensed grower shall accept any product returned for destruction and record as green waste.
- B. A licensed grower shall otherwise destroy any other product recorded as green waste with standard operating procedures.

.05 Product Reservations and Trade Practices.

- A. A grower licensed under COMAR 14.17.06.06 or COMAR 14.17.07.05 shall make a good faith effort to allow for at least 10 percent of cannabis grown to be:
 - (1) Transferred to a licensed processor to be produced into a cannabis product by a licensee that has no common ownership interest or control with the grower licensee; or
 - (2) Upon licensure of social equity applicants and the operation of social equity businesses as defined in COMAR 14.17.01, transferred to be produced into cannabis products by social equity businesses.
- B. The Administration may query the seed-to-sale tracking system to ensure compliance with §A of this regulation.
- C. If a licensed grower is found in violation of this regulation, the Administration may:
 - (1) Issue a fine; and
 - (2) Restrict, suspend, or revoke the license.

14.17.11 Cannabis Processor Operations

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, and 36-401, Annotated Code of Maryland

.01 Scope.

- Unless otherwise specified this chapter applies to a business licensed to process cannabis under COMAR 14.17.06.07 and COMAR 14.17.07.06.

.02 Cannabis Processor Premises.

A. A licensed processor facility shall:

- (1) Be located within Maryland;
- (2) Conform to local zoning and planning requirements; and
- (3) Conspicuously display a processor license at the licensed premises.

B. A licensed processor facility premises shall be secured in accordance with COMAR 10.62.21.03—10.62.21.07.

C. No modifications or renovations to licensed processor premises shall be undertaken without prior approval by the Maryland Cannabis Administration.

.03 Cannabis Processor Facility Operations.

Licensed processor operations shall be conducted in accordance with COMAR 10.62.22.

.04 Cannabis Product Processing.

A licensed processor shall produce cannabis products in accordance with COMAR 10.62.23.

.05 Edible Cannabis Product Processing.

A. A licensed processor that produces edible cannabis products as defined in COMAR 14.17.01 shall maintain facilities and manufacture edible products in accordance with COMAR 10.62.37.04—10.62.37.10 and 14.17.13.05.

B. A licensed processor may apply to the Administration for a permit to produce edible products in accordance with COMAR 10.62.37.03.

C. The permit issued by the Administration shall verify compliance with COMAR 10.62.37.04—10.62.37.10.

.06 Micro Processor Premise and Operations.

Micro processors may not process more cannabis than the limits established in Alcoholic Beverages and Cannabis Article, §36-401(c)(2)(ii), Annotated Code of Maryland.

.07 Product Returned for Destruction and Disposal of Green Waste.

A. A licensed processor shall accept any product returned for destruction and record as green waste.

B. A licensed processor shall otherwise destroy any other product recorded as green waste in accordance with standard operating procedures.

14.17.12 Cannabis Dispensary Operations

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, 36-401, and 36-410, Annotated Code of Maryland

.01 Scope.

Unless otherwise specified, this chapter applies to all business licensed to dispense cannabis under COMAR 14.17.06.08 or COMAR 14.17.07.08.

.02 Standard Cannabis Dispensary.

A. A standard dispensary premises licensed under COMAR 14.17.06.07 shall:

- (1) Be located in Maryland;
- (3) Conform to all local zoning and planning requirements;
- (4) Be secured and operated in accordance with COMAR 10.62.27.03—.09; and
- (5) Provide accommodations for qualifying patients and registered caregivers in accordance with COMAR 14.17.04.06.

B. A licensee may not make modifications or renovations to the standard cannabis dispensary premises licensed under COMAR 14.17.06.08 without the prior approval of Maryland Cannabis Administration.

C. The Administration may require a dispensary licensed under this regulation to conspicuously display:

- (1) Valid proof of license; and
- (2) Minimum purchase age and identification requirements; and
- (3) Other information related to health and safety provided by the Administration.

D. Any display required by the Administration under §C of this regulation shall be in a manner and size determined by the Administration.

E. A standard dispensary shall restrict access to the licensed premises to only:

- (1) Qualifying patients;
- (2) Registered caregivers; and
- (3) Individuals 21 years old or older.

F. A standard dispensary may provide drive-through dispensing services in accordance with COMAR 10.62.27.10.

.03 Micro Dispensary or Delivery Service.

A. Prior to the placement of any order, a micro dispensary licensed to dispense cannabis under COMAR 14.17.07.08 shall verify the consumer is:

- (1) 21 years old or older;
- (2) A qualifying patient; or
- (3) A registered caregiver for a qualifying patient.

B. A micro dispensary licensed to dispense cannabis under COMAR 14.17.07.08 may not:

- (1) Make deliveries to addresses on publicly owned land, schools, day care centers, or youth centers;
- (2) Transport cannabis or cannabis products not associated with an active invoice, order, or product manifest;
- (3) Transport cannabis or cannabis products in any vehicle noncompliant with §C of this regulation;
- (4) Dispense cannabis or cannabis products without a prior order submitted to the licensed business; and

(5) *Wear any clothing or symbols that may indicate ownership or possession of cannabis;*

C. *Deliveries shall be made by a registered agent or micro dispensary owner in an enclosed vehicle that:*

(1) *Maintains secure storage;*

(2) *Has and displays a current license number from the Administration;*

(3) *Is insured as required by law; and*

(4) *Does not display any sign or illustration related to cannabis, cannabis products, or a cannabis licensee.*

D. *The Administration may, as a condition of licensure, inspect the vehicle for compliance with §§C(1)—(4) of this regulation.*

E. *While making deliveries under this regulation, a licensed micro dispensary shall only travel:*

(1) *Between licensees, registrants, or from one delivery address to another delivery address; and*

(2) *In Maryland.*

F. *A licensed micro dispensary may not carry cannabis or cannabis products in the delivery vehicle with a value in excess of \$5,000 at any time.*

G. *For the purposes of §F of this regulation, the value of cannabis goods shall be determined using the current retail price of all cannabis or cannabis products carried by or within the delivery vehicle.*

.04 Dispensing Cannabis.

A. *Dispensing Medical Cannabis.*

(1) *A licensed dispensary shall dispense medical cannabis in accordance with COMAR 10.62.30.03.*

(2) *Any dispensing to a qualified patient or registered caregiver shall be recorded by the agent as a sale of medical cannabis using the seed-to-sale tracking system.*

B. *Dispensing Adult-Use Cannabis.*

(1) *A registered dispensary agent shall dispense cannabis only to a consumer who has presented a government-issued photo identification card that is valid, unexpired, and contains the consumer's birth date.*

(2) *A government-issued identification card under §B(1) of this regulation includes:*

(a) *State driver's license;*

(b) *U.S. passport;*

(c) *U.S. passport card;*

(d) *Non-driver's state photo ID card;*

(e) *Foreign passport;*

(f) *U.S. military ID card; and*

(g) *Tribal card.*

(3) *A government-issued photo identification card does not include a student identification card issued by a public institution or university.*

(4) *Before any distribution of cannabis, a dispensary agent shall query the Administration data network using a unique log-in that identifies the registered dispensary agent.*

(5) *At the point of sale, a dispensary agent shall verify that the consumer is 21 years old or older using the consumer's government-issued photo identification.*

(6) *A dispensary agent may provide information on:*

(a) *The available types of cannabis, cannabis varieties, and cannabis finished products;*

(b) *Methods of cannabis administration; and*

(c) *How to return unused cannabis for disposal.*

(7) *Sales limits.*

(a) *A dispensary agent may not knowingly dispense to an individual an amount of cannabis or cannabis products greater than the personal use amount under Criminal Law Article, §5-101, Annotated Code of Maryland, in a single day.*

(b) *For the purposes of calculating the personal use amount of cannabis that can be dispensed, an individual may not purchase more than:*

(i) *1.5 ounces of usable cannabis products as defined in COMAR 14.17.01;*

(ii) *12 grams of concentrated cannabis products;*

(iii) *Edible cannabis products, capsules, and tinctures that do not exceed 750 milligrams of tetrahydrocannabinol;*

(iv) *Two or fewer cannabis plants.*

(c) *For the purpose of determining sales limits under this subsection, cannabis vaporizing devices shall be weighed and considered as concentrated cannabis products.*

(8) *A registered dispensary agent may decline to dispense cannabis to a consumer if, in the professional opinion of the registered dispensary agent, the consumer appears to be:*

(a) *Currently under the influence of drugs or alcohol;*

(b) *Attempting to purchase cannabis products for resale or diversion; or*

(c) *Obtaining an amount of cannabis products greater than the personal use amounts under §B(7) of this regulation.*

(9) *Consumers purchasing cannabis under this regulation may purchase:*

(a) *Usable cannabis products as specified in COMAR 14.17.13.11;*

(b) *Cannabis vaporizing devices as specified in COMAR 14.17.13.08; or*

(c) *Edible cannabis products, capsules, and tinctures under COMAR 14.17.13 with less than:*

(i) *10 milligrams of THC per serving; and*

(ii) *100 milligrams of THC per container.*

(10) *A licensed dispensary may not sell or distribute any cannabinoid products that are not derived from naturally occurring biologically active chemical compounds.*

C. Dispensing Controls.

(1) A licensed dispensary may not sell, transfer, or deliver cannabis or cannabis products unless the licensee verifies by means of a valid driver's license or other government-issued photo identification containing the bearer's date of birth, in accordance with Alcoholic Beverages and Cannabis Article, §36-1101(a), Annotated Code of Maryland;

(2) A licensed dispensary shall use the seed-to-sale tracking system to track and record all cannabis sales;

(3) A licensed dispensary may not distribute samples of cannabis or cannabis products to consumers;

(4) A registered agent, or owner of a licensed dispensary may not dispense cannabis to themselves; and

(5) If a licensed dispensary offers reduced cost or discount cannabis or cannabis products to an agent, the reduced cost or discount available shall:

(a) Be set forth in a standard operating procedure;

(b) Be distributed in accordance with the standard operating procedure.

.05 Coordination of Enforcement Efforts between Maryland Cannabis Administration and the Comptroller of Maryland.

A. The Administration may query the seed-to-sale tracking system and shall, upon request from the Comptroller of Maryland, provide information from the seed-to-sale tracking system to the Comptroller of Maryland to ensure proper compliance, collection, and assessment of the sales and use tax by licensed dispensaries and on-site consumption establishments.

B. If a licensee fails to pay a tax to the Office of the Comptroller when due under Tax-General Article, Annotated Code of Maryland, the Administration may:

(1) Levy a fine; and

(2) Restrict, suspend, or revoke the cannabis license.

.06 Product Reservations and Trade Practices.

A. Products not authorized for adult-use consumers under Regulation .04B of this chapter shall only be sold, distributed, or otherwise dispensed to qualifying patients and caregivers.

B. Cannabis dispensaries licensed under COMAR 14.17.06.08 or COMAR 14.17.07.07 shall make a good faith effort to allow for at least 25 percent of product available for retail sales to be:

(1) Products grown, manufactured, extracted, or otherwise produced by a licensee that has no common ownership interest or control with the dispensary licensee; and

(2) Upon licensure of social equity applicants and the operation of social equity businesses as defined in COMAR 14.17.01, products grown, manufactured, extracted, or otherwise produced by social equity businesses.

C. The Administration may query the seed-to-sale tracking system to ensure compliance with §B of this regulation.

D. If a licensed dispensary is found in violation of this regulation, the Administration may:

(1) Issue a fine; and

(2) Restrict, suspend, or revoke the license.

.07 Product Returned for Destruction and Disposal of Green Waste.

A. A licensed dispensary shall dispose of green waste in accordance with COMAR 10.62.30.08.

B. A licensed dispensary shall accept products returned for destruction in accordance with COMAR 10.62.30.10.

.08 Online Ordering.

A. An online order system for cannabis or cannabis products shall:

(1) Employ a neutral age-gate to establish that the consumer is 21 years old or older or otherwise validate the individual is a qualifying patient or a registered caregiver;

(2) Include a notice that a valid, government-issued photo identification card as set forth in Regulation .04B(2) of this chapter is required to receive the order of cannabis or cannabis products;

(3) After confirming the consumer is 21 years of age or older, collect consumer, qualifying patient or registered caregiver signature and contact information, including:

(a) Email; or

(b) Telephone number.

B. An online order system may be used to place pre-orders for:

(1) Pick-up at a licensed dispensary for patients, caregivers, and consumers; and

(2) Delivery for patients and caregivers.

C. Until the consumer, qualifying patient, or registered caregiver presents a valid, government-issued identification card as set forth in Regulation .04B(2), a dispensary may not:

(1) Dispense cannabis products; or

(2) Collect payment.

D. A licensed dispensary may not sell or otherwise transfer any cannabis or cannabis products to a consumer through an unlicensed third party, intermediary business, broker, or any other business or entity.

F. A licensed dispensary may only deliver cannabis in accordance with COMAR 14.17.06.08 and COMAR 14.17.12.03, depending on license type.

.09 Hours of Operations.

A licensed dispensary may not operate:

A. For more than 12 hours in a day;

B. Past 10 p.m.; or

C. Before 8 a.m.

14.17.13 Cannabis Products

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, and 36-203.1, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings as indicated.

- (1) "Current Good Manufacturing Practices" or "cGMP" means a manufacturing process that complies with 21 CFR Part 111 or 21 CFR Part 210.
- (2) "Food" means any substance that is used as food or drink for human beings or as a component of food or drink for human beings.
- (3) "Food ingredient" means a substance that is used as a component of food, including:
 - (a) Flavoring;
 - (b) Food coloring; and
 - (c) Preservatives.
- (4) "Ingredient" means any component of an edible cannabis product that is intended for human consumption, approved by the Administration, and composed of:
 - (a) Food or food ingredients; or
 - (b) Cannabis.
- (5) "Permittee" means a licensed processor authorized by the Administration to manufacture edible cannabis products.

.02 Finished Products for Retail Sale.

A. A licensed dispensary is only authorized to dispense a finished product that has been sealed, labeled, and packaged in accordance with COMAR 14.17.18.

B. Except as described in Regulation .11 of this chapter, a licensed dispensary shall only obtain finished cannabis products from a licensed grower or processor.

.03 Product Reservations.

A. Medical Cannabis Products.

(1) The Administration shall require that certain finished cannabis products be dispensed only to qualifying patients or registered caregivers to:

- (a) Ensure adequate supply of medical cannabis products; and
- (b) Reserve high potency products for medical patients.

(2) Products reserved for qualifying patients under this section include:

- (a) Concentrated cannabis products;
- (b) Edible cannabis products, infused non-edible cannabis products, capsules, and tinctures containing more than:
 - (i) 10 milligrams of tetrahydrocannabinol per serving; or
 - (ii) 100 milligrams of tetrahydrocannabinol per package.

(3) No part of this section may be construed to prohibit the dispensing of other finished cannabis products to qualifying patients in accordance with COMAR 14.17.12.04, including:

- (a) Cannabis vaporizing devices;
- (b) Home cultivation products;
- (c) Usable cannabis products; and
- (d) Edible cannabis products containing less than:
 - (i) 10 milligrams of tetrahydrocannabinol per serving; or
 - (ii) 100 milligrams of tetrahydrocannabinol per package.

B. Adult-Use Cannabis Products. Individuals purchasing cannabis products for adult-use may purchase:

- (1) Cannabis vaporizing devices;
- (2) Home cultivation products;
- (3) Usable cannabis products; and
- (4) Edible cannabis products, tinctures, and capsules containing equal to or less than:
 - (a) 10 milligrams of tetrahydrocannabinol per serving; or
 - (b) 100 milligrams of tetrahydrocannabinol per package.

C. Licensed dispensaries shall otherwise provide products for retail sale in accordance with COMAR 14.17.12.06.

.04 Product Testing.

A. Finished cannabis products for retail sale shall be tested by an independent testing laboratory authorized by the Administration in accordance with COMAR 14.17.08 prior to any sale, distribution, or dispensing.

B. Testing, sampling, and other laboratory protocols shall be performed by the independent testing laboratory in accordance with the Administration's Technical Authority.

.05 Edible Cannabis Products.

A. General Requirements.

(1) Before engaging in the business of possessing, processing, packaging, labeling, transferring, transporting, selling, or distributing edible cannabis products to a dispensary, a licensed processor shall obtain a permit from the Administration in accordance with COMAR 10.62.37.03.

(2) Prior to offering the products for distribution or sale to a licensed dispensary, a permittee shall obtain approval from the Administration for all edible cannabis products by submitting a request in a manner prescribed by the Administration.

(3) A permittee seeking approval to offer an edible cannabis product shall submit:

- (a) A photograph, digital image, or digital rendering of the product, labeling, and packaging;
- (b) The varying levels of potency and dosing of the edible cannabis product;
- (c) The recipe, including the production process, for manufacturing the edible cannabis product; and
- (d) Any scientific studies or laboratory testing results supporting the stability and approximate expiration date of the edible cannabis product.

(4) The Administration shall review and approve each edible cannabis product before the product may be commercially manufactured or sold by a permittee, to ensure the:

- (a) Product complies with the requirements of this chapter; and
- (b) Safety of minors.

B. Dosage Requirements.

(1) Unless expressly authorized by the Administration, an edible cannabis product may not contain more than:

- (a) 10 milligrams of THC per serving; and
- (b) 100 milligrams of THC per package.

(2) Each single serving contained in a package of a multiple-serving edible cannabis product shall be physically separated in a way that enables an individual to determine how much of the edible cannabis product constitutes a single serving.

(3) An intact product form containing multiple servings does not meet the requirements of §B(2) if it has demarcations or delineations on the product to indicate individual servings.

(4) The Administration may approve a request to manufacture a high potency edible cannabis product containing more than 10 milligrams of THC per serving or 100 milligrams of THC per package if:

- (a) A permittee submits a request in a form prescribed by the Administration; and
- (b) The request complies with §G of this regulation.

(5) An edible cannabis product consisting of multiple servings shall be homogenized so that each serving contains the same concentration of THC.

C. Appearance of Edible Cannabis Products.

(1) A permittee shall only manufacture or distribute solid edible cannabis product in geometric shapes.

(2) A permittee may not manufacture an edible cannabis product that due to its shape, design, or flavor is likely to appeal to minors.

(3) The manufacture or sale of edibles in the following shapes is prohibited:

(a) Human, animal, toy, or fruit;

(b) A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings; and

(c) A commercially available food or beverage product that targets, or is primarily marketed to minors.

D. Liquid Edible Product Requirements.

(1) A liquid edible product container may not contain more than a single serving per container.

(2) A single serving of a liquid edible product may not exceed 10 milligrams of THC per container;

(3) A liquid edible product shall otherwise comply with this regulation.

E. Prohibited Products.

(1) Edible cannabis products may not contain:

- (a) Meat;
- (b) Seafood;
- (c) Unpasteurized eggs; or
- (d) Unpasteurized dairy of any type.

(2) The following types of products may not be sold:

(a) Alcoholic beverages, as defined in Alcoholic Beverage and Cannabis Article, §1-101, Annotated Code of Maryland; and

(b) Any product containing any non-cannabis additive that would increase potency or toxicity, or that would create an unsafe combination with other psychoactive substances, including nicotine and caffeine.

(3) The prohibition in §E(2)(b) of this regulation does not apply to products containing naturally occurring caffeine, such as coffee, tea, or chocolate.

F. Compliance with State and Federal Food Safety Requirements. In addition to the other requirements set forth in this chapter, a permittee shall comply with all applicable food safety regulations including:

- (1) 21 CFR, as amended;
- (2) 21 U.S.C. §343, as amended;
- (3) 21 U.S.C. §§451-471, as amended; and
- (4) 21 U.S.C. §§601-695, as amended.

G. High Potency Edible Cannabis Products.

(1) Edible products produced with approval by the Administration under §B(4) of this regulation shall comply with Current Good Manufacturing Practices under 21 CFR Part 111 or 21 CFR Part 210.

(2) A permittee shall submit to the Administration a third-party certification that demonstrates compliance with §G(1) of this regulation.

(3) Demonstration of compliance required under §G(2) shall include:

(a) Proof of the third party's accreditation to certify for Current Good Manufacturing Practices that complies with 21 CFR Part 111 or 21 CFR Part 210; and

(b) An attestation that the third party performed a facility audit of the licensed processor's facility using an audit checklist within the scope of accreditation that complies with 21 CFR Part 111 or 21 CFR Part 210; and

(c) The audit checklist for cGMP 21 CFR Part 111 or 21 CFR Part 210, facility score, the audit checklist score scale, and a corrective plan to remediate any deficiencies identified during the audit.

(3) Edible products produced with approval by the Administration under §B(4) of this regulation may not:

(a) Be a liquid edible product as described in §D of this regulation; or

(b) Contain more than:

(i) 40 milligrams of THC per serving; and

(ii) 400 milligrams of THC per package.

(4) A dispensary shall only sell or dispense high potency edible products to qualified patients and registered caregivers.

(5) A processor shall label high potency edible products in accordance with COMAR 14.17.18.04.

H. The Administration shall maintain permittee trade secrets in conformity with COMAR 10.62.37.11.

.06 Capsule and Tincture Products.

A. A tincture shall:

(1) Contain no additional non-cannabis ingredients except potable water, unless approved by the Administration; and

(2) For vegetable oil tinctures, are manufactured in accordance with the regulation of edible cannabis products under COMAR 14.17.13.05E—H and COMAR 10.62.37, except for COMAR 10.62.37.03 and COMAR 10.62.37.12B.

(3) Be dispensed in a container that:

(a) Has a resealing, child-resistant cap, or closure; and

(b) Includes within the package a measuring device that is appropriate for the product form, such as a measuring cap or dropper.

B. A licensee may have a non-opaque strip or measuring marks on the bottle or package, but the strip or marks do not suffice as a measuring device under §A of this regulation.

C. A licensee is encouraged to manufacture varying levels of potency for each tincture or capsule product the permittee distributes, including products containing:

(1) 2.5 milligrams of THC per serving; and

(2) 5 milligrams of THC per serving.

D. A dispensary shall only sell or dispense capsule and tincture products with more than 10 milligrams of tetrahydrocannabinol per serving or 100 milligrams tetrahydrocannabinol per package to qualifying patients or registered caregivers.

.07 Home Cultivation Products.

A. A licensed dispensary is authorized to sell and distribute home cultivation products intended to assist with the home cultivation of cannabis.

B. A licensed dispensary may not sell more than:

(1) Two seedlings to an adult use consumer; and

(2) Four seedlings to a qualifying patient who is 21 years old or older or to a registered caregiver.

C. Seedlings not sold by a dispensary shall be destroyed and recorded as green waste in accordance with standard operating procedures if the plant is:

(1) Taller than six inches;

(2) Wider than six inches; or

(3) Otherwise in a flowering or vegetative state.

D. A licensed dispensary may not cultivate cannabis plants.

E. A licensed dispensary shall only acquire home cultivation products under this regulation from a licensed grower.

.08 Cannabis Vaporizing Devices.

A. A dispensary may sell cannabis vaporizing devices to:

(1) Individuals 21 years old or older; or

(2) Registered patients and qualifying caregivers.

B. A cannabis vaporizing device which may be sold under §A of this regulation:

(1) May include a cartridge containing a concentrated or infused cannabis liquid for the purposes of heating and producing a vapor; and

(2) May not include any solid or semi-solid substances such as waxes, shatters, resins, or any other concentrated cannabis product that may be consumed using a vaporizing device or by heating the product in such a way to produce vapor, except to qualifying patients or registered caregivers.

C. Cannabis vaporizing devices may not include:

(1) Vitamin E Acetate; or

(2) Any other solvent, solution, or other substance deemed to be a risk to public health or safety by the Administration through the Technical Authority.

.09 Infused Non-Edible Products.

A. A dispensary shall only sell or dispense infused non-edible products that contain more than 10 milligrams tetrahydrocannabinol per serving or 100 milligrams tetrahydrocannabinol per package to qualifying patients or registered caregivers.

B. Infused non-edible products containing more than 10 milligrams tetrahydrocannabinol per serving or 100 milligrams tetrahydrocannabinol per package shall be labeled in accordance with COMAR 14.17.18.04.

.10 Concentrated Cannabis Products.

A. A dispensary shall only sell or dispense concentrated cannabis products to qualifying patients or registered caregivers.

B. Concentrated cannabis products shall be labeled in accordance with COMAR 14.17.18.04.

.11 Usable Cannabis Products.

A. Usable cannabis products may be sold to:

(1) Individuals 21 years of age or older; or

(2) Registered patients and qualifying caregivers.

B. A licensed dispensary may package, repack, wrap, roll, or otherwise create usable cannabis products from usable cannabis in accordance with §§C and D of this regulation.

C. Repackaging Requirements.

(1) Handwashing Sinks.

(a) Each room used for the creation of cannabis products shall have a handwashing sink.

(b) The handwashing sink shall:

(i) Be accessible to all dispensary agents;

(ii) Provide warm water of sufficient volume under pressure of effective hand washing procedures as outlined in this chapter.

(c) A dispensary shall maintain at least one handwashing sink for the following number of agents who are engaged in repackaging while on duty at the same time:

(i) Every 15 agents; and

(ii) Any fraction of 15 agents.

(2) Scales.

(a) A scale used by a licensed dispensary for the creation of usable cannabis products shall be:

(i) A National Type Evaluation Program approved device;

(ii) Registered and certified by the Maryland Department of Agriculture in accordance with COMAR 15.03.08; and

(iii) Calibrated and recertified annually.

(b) A licensed dispensary shall make records and certifications required under (a) of this subsection available to the Administration available upon request.

(3) Sanitation.

(a) Scales, surfaces, and other equipment use for the purposes of creating usable cannabis products shall be cleaned and sanitized:

(i) Between shifts;

(ii) Between packaging, repackaging, or otherwise creation of usable cannabis products with different usable cannabis batches;

(iii) Before beginning any packaging, repackaging, or otherwise creation of usable cannabis products; and

(iv) After the completion of any packaging, repackaging, or otherwise creation of usable cannabis products.

(b) Licensed dispensaries shall maintain an accurate log of cleaning and sanitation required under §(a) of this subsection.

D. Products produced by dispensaries under this regulation shall be packaged and labeled in accordance with COMAR 14.17.18.

E. Licensed growers or processors making usable cannabis products shall also comply with §C—D of this regulation prior to the transfer to a licensed dispensary.

F. Transfer limits and Inventory Controls on Usable Cannabis.

(1) Usable cannabis transferred from a licensed grower to a licensed dispensary for the purposes of creation of usable cannabis products may not exceed:

(a) 1 pound in a single package; or

(b) 5 pounds in a single transfer.

(2) A licensed dispensary shall have no more than 10 pounds of usable cannabis in inventory at a given time for the purposes of creating usable cannabis products.

(3) The Administration may query the seed-to-sale tracking system to ensure compliance with this section.

G. A dispensary may not weigh, package, repack, or create usable cannabis products at the point of sale, or conduct deli-style sales as described in COMAR 10.62.30.09.

14.17.14 Complaints, Enforcement, Record Keeping, and Inspections of Cannabis Businesses

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, and 36-901, Annotated Code of Maryland

.01 Complaints, Adverse Events, and Recall.

A. The Administration shall establish a procedure to receive, organize, store, and respond to all oral, written, electronic or other complaints regarding any cannabis product and severe adverse events.

B. Any complaints or adverse event reports received by a licensee or certifying provider shall be reported to the Administration.

C. In the event a licensee or certifying provider receives a complaint associated with a serious adverse event the licensee or certifying provider, shall report the complaint within 24 hours to:

(1) The Administration;

(2) If applicable, the licensed grower from which the cannabis originated; and

(3) If applicable, the licensed processor from which the cannabis product originated.

D. A complaint shall be investigated by the Administration in accordance with COMAR 10.62.17.03.

E. A licensee shall develop a procedure for the recall of cannabis products in accordance with COMAR 10.62.17.04.

.02 Records.

The licensee shall maintain records in accordance with COMAR 10.62.32.

.03 Inspections.

Inspections shall be conducted in accordance with COMAR 10.62.33.

.04 Discipline and Enforcement.

A. Diversion.

(1) A licensee, registrant, agent, or employee may not:

~~*(a) Divert cannabis or cannabis products for any unauthorized sale or distribution;*~~

(b) Fail to maintain records in accordance with this subtitle, COMAR 10.62, and the standard operating procedures of the licensee;

- (c) Fail to accurately track, tag, or otherwise record inventory in the seed-to-sale tracking system; or
- (d) Sell or dispense cannabis or cannabis products in manner that:

- (i) Exceeds the personal use amount of cannabis or cannabis products;
- (ii) Is reasonably expected to be in violation of the personal use amount; or
- (iii) Could otherwise reasonably give rise to any other violation of law.

(2) A licensee, registrant, agent, or employee may not conduct a series of transactions that would be in violation of §A(1)(d) of this regulation.

B. Health Endangerment.

(1) A licensee, registrant, agent, or employee may not:

- (a) Apply any contaminant to cannabis or cannabis products;
- (b) Handle cannabis or cannabis products in a manner that would endanger health and safety;
- (c) Store cannabis or cannabis products in a manner that would endanger health and safety;
- (d) Otherwise risk the health and safety of a patient or consumer.

(2) A licensee, registrant, agent or employee may not sell, dispense or otherwise distribute cannabis or cannabis products to an individual younger than 21 years old unless the individual is a:

- (a) Qualifying patient over the age of 18; or
- (b) Registered caregiver.

C. A licensee or registrant may not substantially deviate or demonstrate a pattern of deviation from the standard operating procedures or terms set forth in the license.

D. The Administration may fine, suspend, restrict, revoke, or otherwise sanction any cannabis licensee or registrant for:

- (1) Any violation of the Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland;
- (2) Any violation of this regulation;
- (3) Any violation of this chapter;
- (4) Any other violation of this subtitle and COMAR 10.62;
- (5) Restricting, limiting, or otherwise impeding an inspection or investigation by the Administration; or
- (6) Any other violation of State, federal, or local:
 - (a) Law;
 - (b) Regulation; or
 - (c) Ordinances.

.05 Fines, Hearings, and Suspension.

A. A licensee, registrant, agent, or employee who violates Regulation .04A—B of this chapter is subject to a fine of up to \$10,000 per violation.

B. A licensee, registrant, agent, or employee who violates Regulation .04C—D of this chapter is subject to a fine of up to \$5,000 per violation.

C. The licensee, registrant, agent, or employee assessed a fine under this regulation may:

- (1) Elect to pay the imposed fine; or
- (2) Request a hearing not later than 30 days after the receipt of the notice of the fine.

D. Hearings requested under this regulation shall be conducted in accordance with COMAR 14.17.22.

E. The Administration shall remit any penalty collected under this regulation to either the:

- (1) Medical Cannabis Compassionate Use Fund;
- (2) Cannabis Business Assistance Fund;
- (3) Community Reinvestment and Repair Fund; or
- (4) Cannabis Public Health Fund.

F. Funds from fines remitted under §E of this regulation shall be distributed at the discretion of the Administration by evaluating:

- (1) Available fund balances;
- (2) Uses of the fund; and
- (3) Future needs of the fund.

G. Summary Suspension.

(1) The Administration shall order the summary suspension of a license or registration if the Administration determines that the threat to public health, safety, or welfare requires immediate suspension of a license or registration.

(2) The Administration shall promptly give the licensee or registrant:

- (a) Written notice of the suspension, the findings, and the reasons that support the findings; and
- (b) An opportunity for a hearing before the Administration.

(3) Service of notice of intent to summarily suspend a license or registration shall be made by:

- (a) Hand delivery;
- (b) Certified mail to the address the licensee or registrant is required to maintain with the Administration; or
- (c) Other reasonable means to effect service.

(4) A licensee or registrant aggrieved by the action of the Administration under this regulation may appeal the Administration's action by filing a request for a hearing not later than 30 days after receipt of notice of the Administration's action.

H. Show Cause Hearing.

(1) In addition to the right to request a hearing provided in §G(4) of this regulation, a licensee or registrant aggrieved by the action of the Administration under §G of this regulation shall be provided with the opportunity for a hearing to show cause why the Administration should lift the summary suspension.

(2) If requested in writing, the show cause hearing shall be held promptly within a reasonable time after the effective date of the order of the summary suspension.

(3) The show cause hearing will be a non-evidentiary hearing to provide the parties with an opportunity for oral argument on the summary suspension.

(4) The show cause hearing shall be conducted before the Administration director or a designee who:

(a) Shall determine procedural issues;

(b) May impose reasonable time limits on each party's oral argument; and

(c) Shall make rulings reasonably necessary to facilitate the effective and efficient operation of the show cause hearing.

(5) At the conclusion of the show cause hearing, the Administration director or a designee may:

(a) Affirm the order of summary suspension;

(b) Rescind the order of summary suspension;

(c) Enter into a consent order; or

(d) Enter into an interim order warranted by the circumstances of the case, including one providing for a stay of the summary suspension, subject to certain conditions.

(6) After the show cause hearing, if the Administration Director or a designee decides to continue the summary suspension, the licensee or registrant aggrieved by the decision may pursue a hearing in accordance with COMAR 14.17.22.

(7) Contesting a summary suspension through a show cause hearing does not toll or otherwise excuse the requirement that an aggrieved party request a hearing within 30 days of notice of the agency action, as set forth in §G(4) of this regulation.

(8) If, after due notice, the licensee or registrant against whom the action is contemplated does not appear, the Administration may hear and determine the matter.

.06 Advertising.

A. All advertisements for cannabis products, businesses, licensees, or other cannabis-related services shall comply with the requirements of Alcoholic Beverages and Cannabis Article, §§36-901—36-903, Annotated Code of Maryland.

B. A standard licensee, registrant, agent, or employee who violates §A of this regulation:

(1) Is subject to a fine not exceeding:

(a) \$1,000 for the first violation;

(b) \$5,000 for the second violation occurring within 24 months after the first violation; and

(c) \$10,000 for each subsequent violation occurring within 24 months after the preceding violation; and

(2) May elect to:

(a) Pay the imposed fine; or

(b) Request a hearing not later than 30 days from the receipt of the fine.

C. In accordance with the hearing provisions in Regulation .05 of the chapter, the Administration may deny, suspend, or revoke the license or registration of a licensee, registrant, agent, or employee who violates §A of this regulation.

14.17.15 Cannabis Business Agents

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, 36-501, and 36-1001—36-1003, Annotated Code of Maryland

.01 Scope.

This chapter pertains to the regulation of cannabis agents as defined in COMAR 14.17.01.

.02 Registration.

A. Each agent shall be registered with the Administration before the agent may volunteer or work for a licensee or registrant.

B. Cannabis agent registration shall be conducted pursuant to Alcoholic Beverages and Cannabis Article, §36-501, Annotated Code of Maryland.

C. A licensee shall apply to register an agent by submitting to the Administration:

(1) The name, address, date of birth, and Social Security Number or Individual Tax Identification Number of an agent;

(2) Documentation of the submission of fingerprints of the agent of to the Criminal Justice Information System's Central Repository in accordance with the Alcoholic Beverages and Cannabis Article, §36-505, Annotated Code of Maryland;

(3) The request for the criminal history record information of the agent to be forwarded to the Administration.

D. The Administration may not register as a cannabis agent an individual who has been convicted of or pleaded nolo contendere to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

E. The Administration may not deny a cannabis agent registration based on any cannabis-related offense occurring before July 1, 2023.

.03 Registered Agent Identification Cards.

A. The Administration shall issue to each registered agent an identification card which includes a photograph of the face of the registered agent taken no more than 6 months before the date of the application.

B. At all times every registered agent at a licensed or registered premises shall visibly wear the identification card issued to the registered agent by the Administration.

C. The agent shall apply for renewal of the identification card every 2 years.

D. If a registered agent's identification card is lost, destroyed, or stolen, within 24 hours of becoming aware of the loss, destruction or theft, the licensee shall:

(1) Report the loss, destruction, or theft to the Administration;

(2) Apply for a replacement cards; and

(3) Pay a replacement card fee specified in COMAR 14.17.21.

E. An identification card remains the property of the Administration and the Administration may order the return or seizure of an identification card if the registration is revoked or expires.

F. If a registered agent's identification card is lost, destroyed, or stolen, a copy of the notification to the Administration shall be evidence of registration until a new card is obtained from the Administration.

.04 Termination.

A. Within 30 days of the termination of a registered agent, the licensee shall:

- (1) Take custody of the terminated registered agent's identification card;*
- (2) Obtain any keys or other entry devices from the terminated registered agent; and*
- (3) Ensure the terminated registered agent can no longer gain access to the licensed premises.*

B. Within 1 business day of the termination of a registered agent, a licensee shall:

- (1) Notify the Administration:*
 - (a) Of the termination and the circumstance of the termination; and*
 - (b) Whether the terminated registered agent has returned the agent's identification card; and*
- (2) Initiate delivery of the terminated registered agent's identification card to the Administration.*

C. The Administration shall revoke the registration of an agent upon receiving notification that an agent is no longer associated with a licensee.

D. If a registered agent did not return the agent's identification card within 30 days of the termination, the Administration shall notify the law enforcement agency with jurisdiction in the licensee's area.

.05 Training.

A. The licensee shall train all registered agents on:

- (1) Federal and State cannabis laws and regulation and other laws and regulations pertinent to the agent's responsibilities;*
- (2) Standard operating procedures;*
- (3) The State alcohol and drug free workplace policy, as identified in COMAR 21.11.08.03;*
- (4) Detection and prevention of diversion of cannabis;*
- (5) Security procedures;*
- (6) Safety procedures including responding to:*
 - (a) A medical emergency;*
 - (b) A fire;*
 - (c) A chemical spill; and*
 - (d) A threatening event such as:*
 - (i) An armed robbery;*
 - (ii) An invasion;*
 - (iii) A burglary; and*
 - (iv) Any other criminal incident.*

B. The licensee shall retain training materials and attendance records and make the training materials available for inspection by the Administration.

C. Registered agents shall also be required to complete a responsible vendor training program that:

- (1) Meets the minimum requirements under Alcoholic Beverages and Cannabis Article, §§36-1001—36-1003, Annotated Code of Maryland; and*
- (2) Is registered with the Administration in accordance with §E(4) of this regulation.*

D. A responsible vendor training program required under §E of this regulation shall be in addition to the training requirements under §A of this regulation.

E. Responsible Vendor Training Program.

(1) The Administration shall develop an application for a person to conduct a responsible vendor training program.

(2) The application shall at a minimum identify proficiency of the person in the training components of the Alcoholic Beverages and Cannabis Article, §36-1001(c), Annotated Code of Maryland, including:

- (a) Detailed schedule of training program time;*
- (b) Program standards and evaluations for the training program;*
- (c) Sample curriculum materials providing accurate information on:*
 - (i) Required license, registration, and other business authorization;*
 - (ii) Age requirements, patient registration, and other acceptable identification cards;*
 - (iii) Information on serving size, tetrahydrocannabinol, and other cannabinoid potency, and impairment;*
 - (iv) Record maintenance;*
 - (v) Privacy protection for patients;*
 - (vi) Prohibited or unlawful acts;*
 - (vii) Administrative or criminal liability;*
 - (viii) State and local licensing and enforcement;*
 - (ix) Statutory and regulatory requirements for employees and owners; and*
 - (x) Statutory and regulatory requirements for the sale, transfer, or delivery of cannabis or cannabis products.*

(3) Applications approved by the Administration shall be registered with the Administration for a period of three years from the date of approval.

(4) The Administration shall assess a fee for the application, registration, and renewal of a responsible vendor training program under this regulation as specified in COMAR 14.17.21.

(5) A person offering a responsible vendor training program under this paragraph may not have ownership or control of any cannabis license.

(6) A person offering a responsible vendor training program shall:

- (a) Maintain records for at least four years; and
- (b) Make these records available to the Administration upon request.

.06 Prior Registration.

For a cannabis agent previously registered to work or volunteer with a licensee by the Maryland Medical Cannabis Commission under COMAR 10.62.09, COMAR 10.62.20, or COMAR 10.62.26, registration shall be valid for two years from most recent renewal.

14.17.16 Cannabis Business Owners

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-501, 36-502, 36-503, 36-504, and 36-801, Annotated Code of Maryland

.01 Transfer of Ownership and Control.

A. A person wishing to hold an ownership interest of greater than 5 percent or control in a cannabis license shall comply with the application requirements under the Alcoholic Beverages and Cannabis Article, §36-502, Annotated Code of Maryland.

B. A license issued, regulated, or otherwise authorized under this subtitle or COMAR 10.62 shall only be transferred in accordance with the Alcoholic Beverages and Cannabis Article, §36-503, Annotated Code of Maryland.

C. Applicants and transferees under this chapter shall submit to a criminal history record check in accordance with the Alcoholic Beverages and Cannabis Article, §36-505, Annotated Code of Maryland.

.02 Disclosure of Ownership and Control.

A. Each licensee shall submit a table of organization, ownership, and control with the Administration:

- (1) On or before July 1 of each year;
- (2) Within 10 business days of any change in ownership interest or control greater than 5 percent; and
- (3) Upon request by the Administration.

B. The table of organization, ownership, and control shall identify the management structure, ownership, and control of the licensee, including the:

- (1) Name of each owner or principal officer and any other individual or entity with the authority to control the licensee;
- (2) The office or position held, if any; and
- (3) The percentage of ownership interest, if any.

C. If the licensee is a business entity with publicly traded stock, the identification of ownership shall include:

- (1) The name and percentage of ownership interest of each individual or business entity with ownership of more than 5 percent of the voting shares of the entity, to the extent such information is known or contained in 13D or 13G Securities and Exchange Division filings; and
- (2) To the extent known, the names and percentage of interest of ownership of persons who are relatives of one another and who together exercise control over or own more than 10 percent of the voting shares of the entity.

D. A licensee that is owned or controlled, in whole or in part, by another entity shall disclose to the Administration:

- (1) The relationship between the licensee and the parent or affiliate; and
- (2) Each owner, board member, or officer and any other individual with control or management authority over those entities owning or controlling the license.

E. Any individual identified as having ownership or control of a license may not have other ownership interest that exceeds the limitations set forth in Alcoholic Beverages and Cannabis Article, §36-401(e), Annotated Code of Maryland.

.03 Annual Report on Minority Owners and Employees.

On or before November 1 of each year, each licensee shall submit a report in a manner determined by the Administration regarding the licensee's minority owners and employees.

.04 Mandatory Reporting of Legal Actions.

A. The required reporting under this regulation applies to any owner or manager of a licensee or its parent, affiliate, or any subsidiary who is or was a party to the legal action whether in Maryland or another jurisdiction.

B. Notification.

(1) An owner or manager described in §A of this regulation shall notify and provide a description to the Administration of any of the following events:

- (a) The filing of any administrative, civil, or criminal action against the licensee or its parent, affiliate, or subsidiary by any governmental entity, private entity, or individual;
- (b) The disposition of any administrative, civil, or criminal action against the licensee or its parent, affiliate, or subsidiary by any governmental entity, private entity, or individual, whether by judgment, final order, consent order, or other negotiated resolution; or
- (c) The filing for bankruptcy of the licensee or its parent, affiliate, or subsidiary, the entry of a court order for the placement into receivership, or the date of an assignment for the benefit of creditors.

(2) The notification and description of the event required under §B(1) of this regulation shall be provided to the Administration within 14 calendar days after receiving:

- (a) Proper service of process in accordance with the rules of civil or criminal procedure of a court of competent jurisdiction; or
- (b) Formal written notice in accordance with the administrative rules of an administrative agency with jurisdiction.

C. The description under §B(2) of this regulation shall include the following:

- (1) Title and docket number;
- (2) Name and location of the court;

- (3) Names of the parties;
- (4) General nature and scope of the legal action; and
- (5) Any judgment, final order, consent order, or other negotiated resolution.

.05 Prohibited Acts.

- A. A licensee may not transfer ownership of the license for the purpose of:
 - (1) Improperly shielding the license or the value of the license from any judgement or liability; or
 - (2) Furthering any action or plan of action that violates any State, local or federal law.
- B. Except as authorized under Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland, a licensee may not be:
 - (1) A member of the General Assembly;
 - (2) An employee of the Administration; or
 - (3) Otherwise be in violation of the Alcoholic Beverages and Cannabis Article, §36-504, Annotated Code of Maryland.
- C. An individual, group of individuals or persons may not own multiple, non-majority or unreported shares or interests in a cannabis license unless every holding is a passive interest that:
 - (1) Has an aggregate ownership interest of less than 5 percent; and
 - (2) Does not have control over the license.
- D. Owners found in violation of this regulation by the Administration may be subject to any of the following sanctions:
 - (1) Fine;
 - (2) Suspension or revocation of the licensed business; or
 - (3) Forced divestiture of the owner from the licensed business.

14.17.17 Secured Creditors and Receivership

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, and 36-503, Annotated Code of Maryland

.01 Definitions.

- A. In this chapter, the following terms have the meanings indicated:
 - (1) "Licensee" means a licensed grower, processor, or dispensary.
 - (2) "Secured creditor" means a lending institution defined under the Financial Institutions Article, §1-101, Annotated Code of Maryland, that has been approved by the Administration to obtain a security interest in the proceeds from an Administration -approved sale of a grower, processor, or dispensary license.

.02 Eligibility Requirements for Secured Creditors.

- A. To act as a secured creditor under this chapter, the lending institution shall be approved by the Administration.
- B. To request Administration approval, the lending institution shall provide the following documentation to the Administration:
 - (1) A compliance and reporting plan;
 - (2) A proposed plan for the appointment of a receiver that meets the requirements set forth in Regulation .05 of this chapter;
 - (3) Confirmation that the lending institution is in:
 - (a) Good standing and eligible to conduct business in Maryland; and
 - (b) Compliance with any regulatory requirements applicable to the lending institution; and
 - (4) Any other information requested by the Administration.
- C. If additional information is requested pursuant to §B(4) of this regulation, the lending institution shall respond within 30 days, or the Administration may deny the request for eligibility as a secured creditor.
- D. A secured creditor's eligibility is effective, provided:
 - (1) The Administration has not revoked the secured creditor's eligibility; and
 - (2) The secured creditor:
 - (a) Maintains compliance with the eligibility requirements under this chapter; and
 - (b) Submits an annual report to the Administration attesting to its continued compliance with the eligibility requirements beginning one calendar year after the date the secured creditor is approved.
- E. The Administration shall maintain and make available on its website a list of eligible secured creditors approved under this chapter.

.03 Security Interest in a Cannabis License.

- A. A licensed grower, processor, or dispensary may pledge an interest in the proceeds from an Administration-approved sale of cannabis license as a security interest for a loan.
- B. An eligible secured creditor may obtain a security interest in the proceeds from an Administration-approved sale of a licensed grower, processor, or dispensary if:
 - (1) The following information has been provided to the Administration:
 - (a) A copy of the security agreement, subject to the restrictions listed in §C of this regulation; and
 - (b) Any other information requested by the Administration; and
 - (2) The Administration approves the secured creditor to obtain a security interest in the license.
- C. Security Agreement Exclusions.
 - (1) A security agreement may not contain provisions that authorize the secured creditor to unilaterally:
 - (a) Require the loan to become due, except if the licensee materially breaches or defaults on its material obligations as set forth in the security agreement;
 - (b) Convert the debt under the loan to equity;
 - (c) Deprive the licensed grower, processor, or dispensary of the right to operate the license; or

(d) Restrict the ability of the licensed grower, processor, or dispensary from making payment on the secured loan through a third party unless the payment restriction would cause the secured creditor to violate a law by which it is governed.

(2) The Administration may restrict a security agreement for any other good cause as determined by the Administration.

D. Scope of a Security Interest in a Cannabis License.

(1) Upon Administration approval under §B of this regulation, a secured creditor may create a security interest in proceeds from the sale of a cannabis license associated with a loan to a licensed grower, processor, or dispensary.

(2) A security interest in a cannabis license entitles the secured creditor to the right to the proceeds from the sale of the cannabis license that occurs in accordance with a disposition plan under Regulation .08 of this chapter.

(3) A security interest in a cannabis license excludes the right to operate the license.

E. The Administration may deny a secured creditor from pursuing disposition of a cannabis license if the Administration determines that the arrangement is intended as a mechanism to circumvent the sale or transfer of ownership requirements under Alcoholic Beverages and Cannabis Article, §36-503, Annotated Code of Maryland.

.04 Selection of an Eligible Receiver.

A. Subject to approval by the Administration under Regulation .05 of this chapter, a secured creditor may select an eligible receiver who is a third party to oversee the disposition of a cannabis license, including the assets of the licensee, if a licensed grower, processor, or dispensary whose cannabis license is subject to an Administration-approved security interest:

(1) Is the subject of an order requiring appointment of a receiver;

(2) Becomes insolvent; or

(3) Otherwise materially breaches or defaults on its material obligations secured by the associated license as set forth in the Administration -approved security agreement.

B. Not later than 10 business days before the Administration approves the receiver, the secured creditor who selects a prospective receiver for approval under Regulation .05 of this chapter shall submit the following information to the Administration:

(1) Proof of the creditor's secured interest in the proceeds from a sale of the license of the associated licensed grower, processor, or dispensary;

(2) Proof of an order requiring appointment of a receiver, insolvency, or evidence of the licensee's material breach or default on its material obligations, as set forth in the associated Administration -approved security agreement; and

(3) Any additional information requested by the Administration.

.05 Application for Receivership.

A. A prospective receiver shall apply for and receive approval from the Administration in order to serve as a receiver under this chapter.

B. The applicant for receivership shall submit to the Administration a completed application, in a form developed by the Administration, accompanied by the following:

(1) Documentation establishing the applicant's qualifications and ability to oversee the orderly disposition of the secured license in a manner that facilitates continuity of the licensee's operations to the extent possible.

(2) A list of all owners and principal officers of the applicant and supporting documentation, including:

(a) Certificate of incorporation;

(b) Bylaws;

(c) Articles of organization;

(d) Operating agreements;

(e) Certificate of limited partnership;

(f) Resolution of a board of directors; or

(g) Other similar business formation documents;

(3) Documentation establishing that the individual or entity is eligible to do business in Maryland throughout the term of the receivership;

(4) Criminal history record information demonstrating that the applicant for receivership does not have any disqualifying criminal conviction applicable to licensees under this subtitle or COMAR 10.62;

(5) Financial records, including a record of tax payments in all jurisdictions in which an applicant has operated a business for the 3 years before the filing of the application;

(6) An affidavit confirming that the applicant does not have a financial or ownership interest in any grower, processor, or dispensary license in Maryland;

(7) A disposition of license plan, subject to Administration approval, which includes:

(a) A detailed description of the plan for the orderly disposition of the license and associated business assets in order to satisfy the security interest in the right to the proceeds from the sale of the license; and

(b) A proposed timeline for the orderly disposition of the license of the associated licensed grower, processor, or dispensary.

(8) Any additional information requested by the Administration.

C. The application shall be accompanied by a non-refundable receivership application fee specified in COMAR 14.17.21.

D. Administration Determination of Receivership.

(1) Upon receipt of a completed receiver application and associated fee, the Administration shall either approve, deny, or request additional information from the applicant.

(2) If the applicant fails to provide any additional requested information to the Administration within 30 days of the request, the application shall be considered denied.

(3) If the Administration approves an application, the Administration shall appoint the applicant to serve as the receiver to oversee the orderly disposition of the license, including the sale and transfer of the license and associated business asset, provided the Administration has not otherwise revoked the approval.

(4) The approved receiver:

(a) Shall maintain compliance with the eligibility requirements under this chapter, as evidenced by submitting an annual report to the Administration attesting to continued compliance beginning one calendar year after the date the receiver is approved;

(b) Shall be a third party that is not affiliated with the secured creditor; and

(c) May not have a financial or ownership interest in any licensed grower, processor, or dispensary in Maryland during the period the receiver is actively carrying out its responsibilities under this chapter.

.06 Security Protocols for Receiver in a Non-Public Area of the Premises.

A. When a receiver is admitted to a non-public area of the premises of a licensee, a registered grower, processor, or dispensary agent of the licensee shall:

(1) Log the receiver in and out;

(2) Retain with the log a photocopy of the receiver's government-issued identification;

(3) Continuously supervise the receiver while on the premises; and

(4) Ensure that the receiver does not touch any plant or cannabis product.

B. The licensee shall maintain a log of any visits by the receiver to non-public areas of the premises for 2 years.

.07 Receiver's Responsibilities.

A. A receiver shall comply with the provisions in this subtitle, COMAR 10.62, and Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland, governing the licensed grower, processor, or dispensary that is subject to the receivership.

B. In the event of a material violation by the receiver, the Administration shall provide the secured creditor associated with the receivership with written notice of the violation and an opportunity to cure within 45 days after receipt of the written notice, unless the Administration determines that the violation is an imminent threat to public health and safety, in which case the Administration shall terminate the receivership immediately.

C. The Administration shall terminate the receivership if after providing notice and the opportunity to cure, the material violation is not cured within the 45-day period.

D. Whenever the Administration terminates a receivership under this regulation, the secured creditor may select another prospective receiver for Administration approval under Regulation .05 of this chapter.

.08 Disposition of a Secured Cannabis License.

A. A receiver appointed under this chapter shall initiate and oversee the orderly disposition of a license and associated business assets in accordance with the disposition of license plan specified in Regulation .05B(7) of this chapter.

B. Notification. A receiver shall:

(1) Issue public notice of the method, manner, time, place, and other terms of the disposition in a newspaper of general circulation in the jurisdiction in which the licensee is located and authorized to do business at least 60 days prior to the planned disposition, including the following information in clear, bold type:

(a) Name and contact information of the secured creditor;

(b) Name of licensee, and doing business as (d/b/a) or trade name, if applicable;

(c) License number;

(d) License classification;

(e) Date, time, and location of planned disposition;

(f) Deadline for obtaining pre-approval from the Administration to qualify as an eligible bidder at the planned disposition; and

(g) Terms and conditions imposed by the secured creditor on the disposition process and on the successful bidder; and

(2) Provide a copy of the information in §B(1) of this regulation to the Administration for the purpose of posting on the Administration's website.

C. To qualify as an eligible bidder seeking to obtain the cannabis license, an individual, or in the case of an entity, each individual who would acquire an ownership interest of 5 percent or more of the cannabis license that is the subject of the disposition, shall provide the following information to the Administration not later than 30 days before the deadline for obtaining Administration approval to qualify as a bidder at the planned disposition of the license:

(1) Name and contact information;

(2) Criminal history record information;

(3) Completed ownership and control attestation form provided by the Administration for each individual who intends to hold an ownership interest of 5 percent or more;

(4) Evidence of immediately available financial resources sufficient to pay the deposit at the planned disposition and to close the transaction within 10 days of the ratified and final disposition;

(5) Demonstration that the bidder meets all material requirements for licensure; and

(6) Any additional information requested by the Administration.

D. Process for Final Disposition.

(1) Upon completion of the planned disposition, the successful bidder shall prepare and submit to the Administration, within 3 days after the conclusion of the planned disposition, the necessary documentation to obtain final approval for the transfer and sale of the license, including a completed request to transfer ownership of a cannabis license provided by the Administration.

(2) Upon receipt of final approval of the transfer and sale of the license by the Administration, the disposition shall be considered ratified and final.

E. To facilitate the orderly disposition of a secured license and associated assets, the provisions set forth in Alcoholic Beverages and Cannabis Article, §36-503, Annotated Code of Maryland, do not apply to the sale or transfer of the license pursuant to this chapter.

F. Notwithstanding §E of this regulation, the sale or transfer of a license in accordance with this chapter shall be conducted in good faith, and the provisions of this chapter may not be used as a mechanism to circumvent the sale or transfer of ownership requirements under Alcoholic Beverages and Cannabis Article, §36-503, Annotated Code of Maryland.

G. Termination of Receivership.

(1) Upon ratified and final disposition of the cannabis license and associated assets:

(a) The receivership terminates; and

(b) The receiver shall be immediately released of any responsibility associated with the receivership, and from liability for any actions or omissions that occur after the termination of the receivership.

(2) Nothing in this regulation shall be construed as limiting the liability of the receiver for any actions or omissions that occurred during the period that the receivership was in effect.

14.17.18 Finished Product Packaging

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, and 36-203.1, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Cartoon" means a drawing showing the features of the subject in a simplified or exaggerated way.

(2) "Child resistant" means with respect to packaging of cannabis or cannabis product ready for retail sale, designed or constructed to be significantly difficult for a typical child younger than 5 years old to open and not to be significantly difficult for a typical adult to open, and complies with 16 CFR §1700.15(B)(1).

(3) "Exit packaging" means an opaque bag, pouch or other container that cannabis, cannabis products and/or cannabis seeds and plants are placed after a retail sale and before the purchased items leave the licensed premise.

(4) "Lot" means all of a cannabis finished product that is uniform, that is intended to meet specifications, and that is manufactured, packaged, or labeled together during a specified time period according to a single lot record.

(5) "Marketing layer" means the outermost layer of a retail sale container, which is most predominantly apparent and visible. If the container consists of only a single layer, then the outer surface of the container is the marketing layer.

(6) "Tamper evident" means with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product, or container easily detectable.

.02 General Packaging Requirements.

A. All items shall be individually packaged by a licensed grower or processor prior to distribution to any licensed dispensary for retail sale.

B. Packaging Requirements.

(1) All packaging of any cannabis product for retail sale shall be:

(a) Tamper evident;

(b) Child resistant; and

(c) Plain and opaque.

(2) Tamper evident packaging required under this section:

(a) For soft sided packaging:

(i) Shall be sealed at the opening in a way that indicates if the container has been opened or tampered with; and

(ii) Once opened must remain clear that the package has previously been opened; or

(b) For a rigid container:

(i) Shall contain a tamper evident seal; or

(ii) The lid or enclosure shall have an adhesive band or seal that once opened must remain clear that the package has previously been opened.

(3) Any soft sided package shall be four millimeter or greater in thickness.

(4) Any package containing multiple servings shall be resealable.

.03 General Labeling Requirements.

A. All cannabis and cannabis products for retail sale shall be properly labeled in accordance with this regulation.

B. Labels required under this regulation shall:

(1) Be printed directly on, or on a label or sticker affixed directly to, the marketing layer.

(2) Use text no smaller than size 6 font or 1/12 an inch.

(3) Use text clearly written and printed in the English language.

C. Warning Statements.

(1) All products sold for retail shall include the following warning statements in a manner that complies with §B of this regulation:

(a) "The contents may only be lawfully consumed by a consumer 21 years old or older, or a registered medical cannabis patient."

(b) "Consumption of cannabis may impair your ability to drive a car or operate machinery. Please use extreme caution."

(c) "There may be health risks associated with cannabis use, especially if pregnant or breastfeeding." and

(d) "This package contains cannabis. Keep out of reach of children and animals."

(2) Any product intended for topical application shall include a statement identifying that the product is not intended for human consumption, ingestion, or inhalation.

(3) Any product for retail sale shall include the Maryland Poison Center emergency telephone number.

D. Product Information.

(1) All products sold for retail shall include the following product information in a manner that complies with §B of this regulation:

(a) Net weight of the cannabis, or cannabis product;

(b) Finished product lot number;

(c) Name of the licensee that packaged the product;

(d) Name, address, and phone number of the licensee that sold the product to report an adverse event;

(e) An itemization, including weight, of all cannabinoid and terpene ingredients specified for the product, and concentrates of any cannabinoid of less than one percent shall be printed with a leading zero before the decimal point;

(f) If applicable, a list of all major allergens contained in and used to manufacture the cannabis finished product in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. §343 (2010), specifically milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans;

(g) A list of all noncannabis ingredients;

(h) A list of any solvents used to produce the product; and

(i) Dates corresponding to the date that:

(i) The product was harvested, packaged, or produced; and

(ii) The product would be considered expired by, or best used by.

(2) Cannabinoid itemization required under §D(1)(e) of this section may be within a standard variance as identified by the Administration in the Technical Authority.

E. A certificate of analysis completed by an independent testing laboratory in accordance with COMAR 14.17.08 and the Technical Authority shall be made available on the package through a link or QR code.

F. Universal Symbol.

(1) Packages shall display the universal symbol:

(a) On the front or most predominantly displayed area of the package;

(b) In an area no smaller than ½ inch by ½ inch;

(c) In the form provided by the Administration and may not be modified, recreated, stylized, stretched, or otherwise distorted; and

(d) On a background where the symbol is clearly distinguishable and identifiable.

(2) The following symbol shall be the only symbol used on packages under this regulation:



.04 Medical Cannabis Product Packaging and Labeling.

A. Unless otherwise stated, product regulations under Regulations .02—.03 of this chapter apply to medical cannabis products. This regulation applies in addition to the regulations under this chapter.

B. In addition to the packaging and labeling requirements under Regulations .02—.03 of this chapter, medical cannabis products shall:

(1) Maintain space for a licensed dispensary to attach a personalized label for the qualifying patient; and

(2) Bear a clear warning that it is illegal:

(a) For any person to possess or consume the contents of the package other than the qualifying patient; and

(b) To transfer the package or contents to any person other than a transfer by a caregiver to a qualifying patient.

C. High potency products that are only authorized for sale to qualifying patients under COMAR 14.17.13.03A shall maintain the requirements under §B of this regulation on the product packaging from the licensed grower or processor.

D. Products that are authorized for sale to either qualifying patients or adult use consumers may contain the warnings required under §B(2) of this regulation on a sticker or label that can be attached to the product at the point of sale.

E. All products dispensed to a qualifying patient under COMAR 14.17.12.04A shall attach a personalized label for the qualifying patient, which shall include:

(1) The name of the qualifying patient;

(2) The name of the certifying provider;

(3) The name of the licensee where the product was dispensed;

(4) The date that the medical cannabis was dispensed;

(5) The name of the product;

(6) The strength of applicable cannabinoid and terpene compounds:

(a) Displayed in units appropriate to the dosage form; and

(b) Concentrations of any cannabinoid of less than one percent shall be printed with a leading zero before the decimal point;

(7) The quantity of medical cannabis dispensed, displayed in units appropriate to the dosage form;

(8) Any directions for use of the product; and

(9) The instructions for proper storage or handling of the product.

.05 Edible Cannabis Product Packaging.

A. Unless otherwise stated, product regulations under Regulation .02—.04 of this chapter apply to edible cannabis products and tinctures. This regulation applies in addition to the regulations under this chapter.

B. All edible cannabis product packaging shall include:

(1) Milligrams per single serving of total THC, total CBD, and any other marketed cannabinoid;

(2) Milligrams per package of total THC, total CBD, and any other marketed cannabinoid;

(3) The number of servings per package and, if applicable, the recommended size of a serving;

(4) A nutritional fact panel consistent with the U.S. Food and Drug Administration Standards;

(5) A list of all active and inactive ingredients in descending order of predominance by weight in the cannabis product; and

(6) A warning label that states, "Effects of this product may be delayed by 4 or more hours."

C. Any edible cannabis product containing multiple servings shall:

- (1) Be resealable;
- (2) Contain no greater than 10 milligrams of THC per serving;
- (3) Contain no greater than 100 milligrams of THC per package; and
- (4) Clearly indicate the size of a serving.

D. Multiple, individually packaged single serving products may be packaged together by a licensed processor using a marketing layer if the marketing layer:

- (1) Contains the necessary labels, warnings, and standards under this chapter; and
- (2) Does not combine products the THC content of which exceeds 100 milligrams.

.06 Packaging and Labeling Requirements of Cannabis Seeds and Plants.

A. This regulation applies only to cannabis seeds and plants for home cultivation regulated under COMAR 14.17.13.07.

B. Products sold under this regulation are exempt from Regulation .02—.05 of this chapter.

C. Cannabis Seeds.

- (1) Packaging for cannabis seeds for sale to consumers shall:
 - (a) Keep cannabis seeds dry;
 - (b) Prevent germination of the seeds in the packaging; and
 - (c) Not impart any deleterious substances into the cannabis seeds.

D. Labeling Requirements.

- (1) All cannabis seeds or plants for home cultivation shall display on the marketing layer:
 - (a) The name of the licensed facility where the cannabis seeds were derived or propagated;
 - (b) The name of the licensed dispensary where the product is being sold to an individual for home cultivation;
 - (c) The net weight of the product, or the number of individual seeds; and
 - (d) A warning label that states, "For home cultivation only. Must be 21 years old or older or a registered patient for home cultivation."

.07 Prohibited Packaging and Labeling.

A. Any product labeled and sold in accordance with this subtitle may not bear any:

- (1) Resemblance to the trademarked, characteristic or product-specialized packaging of any commercially available candy, snack, baked good or beverage;
- (2) Statement, artwork or design that could reasonably mislead any person to believe that the package contains anything other than a cannabis finished product;
- (3) Seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe that the product has been endorsed, manufactured, or used by any State, county or municipality or any agency thereof;
- (4) Cartoon, neon colors, celebrity, mascot, image, graphic or feature that is designed to or likely to appeal to minors;
- (5) Images of food, candy, baked goods, cereal, fruit, beverages, or the words "candy" or "candies";
- (6) Depiction of any form of consumption of cannabis or cannabis products;
- (7) Depiction of overconsumption or intoxicating effects of cannabis or cannabis products;
- (8) Claims regarding health or physical benefits to the consumer; and
- (9) False or misleading statements;

B. Labels, marketing layers or any other aspect of the product package are prohibited from obscuring any warnings, statements, or information required under this chapter.

C. Products are prohibited from targeting or being designed to appeal to any individuals younger than 21 years old.

.08 Exemptions.

Notwithstanding Regulations .01—.07 of this chapter, products labeled in accordance with COMAR 10.62.24 may be sold prior to January 1, 2024, if:

- A. The product is unexpired; and
- B. The product and the product packaging was approved prior to July 1, 2023.

14.17.19 Cannabis Research

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-701, and 36-702, Annotated Code of Maryland

.01 Academic Research.

A. An entity eligible to register with the Administration for the purpose of conducting a bona fide research project relating to the uses, properties, or composition of cannabis includes:

- (1) An institution of higher education;
- (2) A related medical facility; or
- (3) An affiliated biomedical research firm.

B. Academic research institutions and entities shall operate in accordance with the Alcoholic Beverages and Cannabis Article, §36-701, Annotated Code of Maryland.

C. Registration.

- (1) An entity qualified under §A of this regulation shall submit an application to the Administration that includes:
 - (a) The name of the primary researcher;
 - (b) The expected duration of the research project;
 - (c) The primary objectives of the research project, scope of work, and potential application(s) of the research findings;
 - (d) An application fee as specified in COMAR 14.17.21; and if applicable,

(e) A detailed budget.

(2) Registrations under this regulation shall be valid until:

(a) There is a change in the research project;

(b) The institution withdraws the registration; or

(c) 30 days have elapsed from the expected duration of the research project and the Administration has not been notified of any change or extension to the research project.

D. Modifications.

(1) The registered entity shall report any modifications to the scope, researcher, or any other information submitted as part of the application within 30 days to the Administration.

(2) The registered entity may continue to conduct research under this regulation while awaiting Administration approval of any modifications.

.02 Research and Development.

A. The Administration may register an entity to grow, process, test, and transfer cannabis for the purposes of research and development.

B. Research and development under §A of this regulation shall comply the purposes under the Alcoholic Beverages and Cannabis Article, §36-702, Annotated Code of Maryland.

C. Registration.

(1) An entity shall submit an application to the Administration that includes:

(a) The name of the primary researcher or entity;

(b) The address the research will be primarily taking place;

(c) The research purpose; and

(d) An application fee as specified in COMAR 14.17.21.

(2) Registrations under this regulation shall be valid for 2 years and may be renewed for additional 2 year terms in a manner determined by the Administration.

D. Research and development entities under this regulation shall otherwise comply with the Alcoholic Beverages and Cannabis Article, §36-702, Annotated Code of Maryland.

E. Modifications.

(1) The registered entity shall report any modifications to the scope, researcher, or any other information submitted as part of the application within 30 days to the Administration.

(2) The registered entity may continue to conduct research under this regulation while awaiting Administration approval of any modifications.

.03 Inspections and Controls.

A. The Administration may inspect entities registered under this chapter to ensure compliance with:

(1) The Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland;

(2) This subtitle and COMAR 10.62;

(3) This chapter;

(4) Any other violation of State, federal, or local:

(a) Law;

(b) Regulation; or

(c) Ordinances.

B. Inspections under this regulation may be announced or unannounced.

C. The Administration may issue identification cards for individuals associated with research entities registered under this chapter.

.04 Reporting Requirements.

A. The registrant shall submit to the Administration:

(1) An annual report on the progress and status of any research project; and

(2) A final report of the findings of the research project to the Administration within 30 days of the completion of the research project.

B. The final report shall include a summary of the research findings and their applications.

C. A published article or document on the research project may serve as the final report.

D. Approval is required by the Administration prior to publication of any findings.

.05 Prohibitions.

A. Entities registered under this regulation may not dispense, sell, sample, or otherwise distribute cannabis or cannabis products to individuals outside of the scope the defined research project.

B. Entities registered under this regulation may not otherwise operate in a manner that gives the appearance of the growing, processing, or dispensing of cannabis or cannabis products by a licensee.

C. Entities registered under this regulation may not perform research activities outside of Maryland.

14.17.20 Prohibited Acts

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-203, and 36-1101, Annotated Code of Maryland

.01 Definitions.

In this section, the term “naturally occurring biologically active chemical constituent” means a chemical compound, component, or other material found naturally in the Cannabis Sativa L. plant and recognized by the Administration.

.02 Prohibitions.

A. A licensee may not:

- (1) Sell, transfer, or deliver cannabis to an individual who is visibly intoxicated;
- (2) Offer cannabis or cannabis products as a prize, premium or consideration for a lottery, contest, game of chance, game of skill, or competition of any kind;
- (3) Conduct direct-to-consumer internet sales of adult-use cannabis or cannabis products on or before July 1, 2025
- (4) Violate any part of:
 - (a) The Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland;
 - (b) This subtitle or COMAR 10.62;
 - (c) This chapter;
 - (d) Any other violation of State, federal, or local:
 - (i) Law;
 - (ii) Regulation; or
 - (iii) Ordinances.

B. Persons not registered or licensed under this subtitle or COMAR 10.62 may not:

- (1) Operate a business or establishment that could reasonably be interpreted to be a licensee;
- (2) Sell or distribute a product intended for human consumption or inhalation that contains more than:
 - (a) 0.5 milligrams of THC per serving; or
 - (b) 2.5 milligrams of THC per package.
- (3) Exemptions.
 - (a) Persons are exempt from §B(2) of this regulation if they sell or distribute a hemp-derived tincture that complies with the Alcoholic Beverages and Cannabis Article, §36-1102(d), Annotated Code of Maryland.
 - (b) Products exempted under this subsection shall be tested by an Independent Testing Lab under COMAR 14.17.08.05A.

C. Sales Restrictions.

- (1) Naturally Occurring Biologically Active Chemical Constituents.
 - (a) A person, registered agent, or licensed business may not sell or distribute a cannabinoid that is not derived from naturally occurring biological active chemical constituents.
 - (b) A licensed business may submit to the State Reference Laboratory, in a manner determined by the Administration, other compounds to be considered for sale, distribution, and regulation.
- (2) Businesses licensed under this subtitle or COMAR 10.62 may not:
 - (a) Have a license to sell alcoholic beverages under Alcoholic Beverages and Cannabis Article, Title 1 or Title 2, Annotated Code of Maryland; or
 - (b) Allow another business to sell alcoholic beverages within its licensed premises.

D. Samples.

- (1) A licensed business may not provide samples of cannabis or cannabis product unless authorized by this section.
- (2) Under this section, samples are only authorized from a licensed business to:
 - (a) Another licensed business;
 - (b) An employee, owner, or agent of another licensed business; or
 - (c) An employee, owner, or agent of the licensed business.
- (3) Trade Samples.
 - (a) Trade samples shall only be provided by a licensed growers and processors and shall be:
 - (i) Provided solely for the purpose of business-to-business marketing;
 - (ii) Recorded in the Administration's seed-to-sale system;
 - (iii) Packaged and labeled in accordance with COMAR 14.17.18;
 - (iv) Tested in accordance with COMAR 14.17.08; and
 - (v) Comply with product requirements under COMAR 14.17.13;
 - (b) Trade samples under this subsection may not be:
 - (i) Sold to another licensed business, patient, caregiver, or consumer;
 - (ii) Consumed on any licensed premises; or
 - (iii) A cannabis plant.
- (4) Employee Samples.
 - (a) Employee samples shall only be provided by a licensed business to an employee of the licensed business and shall be:
 - (i) Provided solely for the purpose of employee education;
 - (ii) Recorded in the Administration's seed-to-sale system;
 - (iii) Packaged and labeled in accordance with COMAR 14.17.18;
 - (iv) Tested in accordance with COMAR 14.17.08; and
 - (v) Comply with product requirements under COMAR 14.17.13;
 - (b) Employee samples under this subsection may not be:
 - (i) Sold to another licensed business, patient, caregiver, or consumer;
 - (ii) Consumed on any licensed premises; or
 - (iii) A cannabis plant.

14.17.21 Fees

Authority: Alcoholic Beverages and Cannabis Article, §§36-202, 36-205, and 36-403, Annotated Code of Maryland

.01 Scope.

The following fees are established by the Administration.

.02 Fees.

A. Application fees:

- (1) For a standard license, on-site consumption license, or incubator space— \$5,000;
- (2) For a micro license— \$1,000.

B. Licensing fees:

(1) For a standard license, on-site consumption license, or incubator space issued under COMAR 14.17.06, the licensing fees for initial licensure or renewal shall be:

- (a) Grower license—\$50,000
- (b) Processor license—\$25,000
- (c) Dispensary license—\$25,000
- (d) Incubator space license—\$10,000
- (e) On-site consumption license—\$10,000

(2) For a micro license issued under COMAR 14.17.07:

- (a) Grower license—\$10,000
- (b) Processor license— \$10,000
- (c) Dispensary license—\$10,000

(3) Licensing fees required under this section shall be valid for a 5-year period.

(4) A licensed social equity business shall have the licensing fees in §B(1) and (2) of this regulation reduced by 50 percent by the Administration for each license type held by the social equity businesses.

C. Registration fees:

(1) Cannabis agent fees:

- (a) Registration fee to be paid every 2 years—\$50; and
- (b) Replacement identification card fee—\$50.

(2) Independent testing laboratory fees:

- (a) Laboratory registration fee—\$5,000;
- (b) Employee registration fee to be paid every 2 years—\$50; and
- (c) Replacement employee identification card fee—\$50.

(3) Ancillary business and security guard agency fees:

- (a) Annual business registration fee—\$1,000;
- (b) Agent registration fee to be paid every 2 years—\$50; and
- (c) Replacement agent identification card fee—\$50.

(4) Research and development fees:

(a) Academic research institution fees:

- (i) Registration fee— \$500;
- (ii) Renew fee for each subsequent or modified research project—\$100;
- (iii) Academic research representative registration fee—\$50; and
- (iv) Academic research representative card replacement fee—\$50

(b) Research and development entity fees:

- (i) Registration fee—\$1,000;
- (ii) Renew fee for each subsequent or modified research project—\$500;
- (iii) Research and development representative registration fee—\$50; and
- (iv) Research and development representative card replacement fee—\$50

(5) Responsible vendor training program fees:

- (i) Registration fee—\$500; and
- (ii) Renewal fee—\$250.

D. Medical cannabis program fees:

(1) Qualifying patient and caregiver fees:

- (a) Identification card base fee—\$25; and
- (b) Replacement identification card fee—\$50.

E. Micro license conversion fees:

(1) A micro licensee who wishes to convert the micro license into a standard license shall pay a pro-rated amount based on:

- (a) The number of whole months remaining on the initial micro license; and
- (b) The fee amount difference between a standard and micro license of the license type.

(2) The conversion fee in this section shall be calculated by the Administration using:

(a) For growers:

- (i) \$50,000 for a full 5-year license term; or
- (ii) A pro-rated amount for each remaining whole month the initial micro license is valid.

(b) For processors:

- (i) \$25,000 for a full 5-year license term; or
- (ii) A pro-rated amount for each remaining whole month the initial micro license is valid.

(b) For dispensaries:

- (i) \$25,000 for a full 5-year license term; or
- (ii) A pro-rated amount for each remaining whole month the initial micro license is valid.

(3) *The conversion fee calculated under this section shall be paid in full within 18 months of the date the conversion is in effect.*

F. Permit fees:

(1) *Edible cannabis product permit fees:*

(a) *Application fee—\$1,000; and*

(b) *Annual permit fee—\$500.*

G. Miscellaneous fees:

(1) *Transfer of ownership interest in or control of a grower, processor, dispensary, on-site consumption, or incubator space license with transferee—\$1,000;*

(2) *Transfer of ownership interest in a grower, processor, dispensary, on-site consumption, or incubator space license with individual transferee—\$500 per person;*

(3) *Change in the location of a grower, processor, or dispensary premises—\$500;*

(4) *License reinstatement fee—\$2,000;*

(5) *Receivership application fee—\$1,000; and*

(6) *Management agreement fee—\$1,000.*

H. At its discretion, the Administration may waive or reduce the fees established in this regulation.

14.17.22 Hearing Procedures

Authority: Alcoholic Beverages and Cannabis Article, §36-202, Annotated Code of Maryland

.01 Scope.

A. This chapter applies to hearings that the Administration is required to conduct by statute or regulation except for those hearings for which specific procedural regulations have been promulgated.

B. These procedures are intended to supplement the procedures required by law. They are not substantive and are not to be construed as creating rights not set out by law. In the event of conflict, statutory provisions take precedence over this chapter.

C. The right to a hearing under this regulation is granted to a licensed business, registrant, agent, owner, or selected applicant that has been subject to an action by the Administration.

.02 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

(1) *"Hearing" means a presentation or other proceeding as defined by the Administrative Procedure Act, State Government Article, §10-201 et seq., Annotated Code of Maryland.*

(2) *"Hearing officer" means a designee empowered by statute to render a decision as defined by the Administrative Procedure Act, State Government Article, §10-201 et seq., Annotated Code of Maryland.*

(3) *"Notice of agency action" means a document issued by the Administration that states the granting of a license registration, plan of correction, remedial action certification, issuance of a fine, and consent order.*

(4) *"Party" means any person or agency named or admitted as a party to a Hearing, including the Administration.*

.03 Notice of Administration Action.

A. The Administration shall provide notice of agency action and a statement of the right to a hearing required by law. The notice shall contain the information required by State Government Article, §§10-207 and 10-208, Annotated Code of Maryland.

B. The Administration acquires jurisdiction over a matter and a case commences when a party files a request for a hearing following the issuance of an agency action.

C. The Administration may delegate authority under State Government Article, §10-205, Annotated Code of Maryland, or as otherwise directed by the Administration.

.04 Request for a Hearing.

A. A party may file a request for a hearing within 30 days of the date of the notice of agency action.

B. If a party does not submit a request for a hearing within the 30-day period, the agency action becomes final and is not subject to appeal.

C. If the party has complied with the terms stated in the notice of agency action, a request for a hearing may not be considered unless the request for a hearing was received by the Administration within 30 days of the agency action.

D. The Administration may delegate a contested case regarding Administration determination to the Office of Administrative Hearings, as permitted and consistent with State Government Article, §10-205, Annotated Code of Maryland.

E. Any hearings delegated by the Administration under §D of this regulation shall be conducted in accordance with this chapter.

.05 Postponement.

A. A hearing officer shall consider a request for postponement only if the requesting party can establish good cause for the postponement.

B. Except as provided in §D of this regulation, a request for postponement shall be made in writing and be received by the Administration no fewer than 5 business days before the scheduled hearing.

C. The hearing officer may require documentation of the reasons for the postponement request from the party.

D. Emergency Request for Postponement.

(1) *For purposes of this paragraph, "emergency" means a sudden, unforeseen occurrence requiring immediate attention which arises within 5 business days of the hearing.*

(2) *In an emergency, a request for postponement may be made by telephone.*

(3) *The hearing officer may require documentation of the reasons for the emergency postponement request from a party.*

.06 Prehearing Conference and Case Resolution.

A. Before a hearing, the hearing officer may:

- (1) Hold a prehearing conference; and*
- (2) Review or request materials relevant to the proceedings.*

B. If all parties agree at a prehearing conference, a hearing officer may dispose of an issue by stipulation or settlement stating whether the disposition is with or without prejudice.

C. Case Resolution.

- (1) The Administration may initiate a case resolution process with parties after the request of a hearing.*
- (2) Any cases that are not resolved through case resolution shall proceed with a hearing in accordance with this chapter.*

.07 Scheduling a Hearing.

A. After receipt of a timely request for a hearing, the Administration shall schedule a hearing as soon as reasonably practicable.

B. The hearing officer shall notify the person or party:

- (1) Of the date, time, and location of hearing;*
- (2) Of the statutory and regulatory authority of the Administration's action or proposed action;*
- (3) That the person or entity may present witnesses and documents at the hearing;*
- (4) That the failure to appear for the scheduled hearing shall be treated as a withdrawal of the request for the hearing; and*
- (5) If the hearing is by telephone, video, or other electronic means, of instructions on how to appear for the hearing.*

(6) Upon request of a person or party, witness, or representative who cannot hear, speak, or understand the spoken or written English language, the Administration shall provide a qualified interpreter during the Administration proceeding in which the party, witness, or representative is participating as required by the Americans with Disabilities Act.

.08 Filing.

Unless otherwise provided by law:

A. An initial pleading is deemed to be filed on the earlier of the date that a request for hearing, along with all required fees, necessary documents, and other information, is postmarked or received by the Administration, if required to be filed with the Administration.

B. Other pleadings are deemed to be filed on the earliest of the date on which they are addressed to the Administration and postmarked.

C. Non-postmarked documents delivered or electronically transmitted to the Administration after 5 p.m. are deemed to be filed on the next day on which the Administration is open for business.

.09 Hearings.

A. Procedures.

- (1) The Administration shall record all hearings and provide a copy of that recording upon request.*
- (2) A party may produce witnesses and documents in support of the party's position.*

B. Written Subpoenas.

- (1) A party may request that the hearing officer issue subpoenas for witnesses or documents necessary for the hearing.*
- (2) A party shall make the request in writing, no later than 21 days before the hearing, explaining why the subpoena is necessary.*
- (3) The hearing officer may:*

(a) Question any witnesses;

(b) Allow a party time to provide additional evidence or written arguments and may reconvene the hearing if the hearing officer considers it necessary;

(c) Consult with any employee of the Administration and with the person before making a decision in a case, in accordance with State Government Article, §10-219(A), Annotated Code of Maryland; or

(d) Decline to issue the subpoena.

C. Evidence.

(1) The hearing officer shall consider evidence of the type and in the manner prescribed by State Government Article, §10-213, Annotated Code of Maryland;

(2) Copies of documents may be admitted, although the Administration's hearing officer may require production of originals;

(3) The Administration shall retain documentary or other evidence for at least 60 days after a final order has been issued and all appeal rights have been exhausted or waived. The evidence may then be destroyed unless the owner or person producing it makes a written request for its return.

D. Burden of Proof.

(1) The standard of proof in a hearing shall be a preponderance of evidence.

(2) In the hearing of a contested case involving allegations that the party violated a law or regulation, the presenter of evidence for the Administration shall bear the burden of proving that the party committed the violations that resulted in the Administration's action against a licensed business.

(3) In the hearing of a contested case resulting from the denial, or proposed denial, of a license, registration, or permit, the applicant shall have the burden of establishing the applicant's entitlement to the license, registration, or permit.

E. Hearings Conducted by Electronic Means.

(1) A hearing officer may conduct all or part of a hearing by telephone, video conferencing, or other electronic means, with the consent of all parties.

(2) All substantive and procedural rights applicable to hearings described in this regulation apply to telephone, video, or other electronic hearings, subject only to the limitations of the physical arrangement.

(3) For a telephone, video, or other electronic hearing, a party shall provide documentary evidence to be offered to all parties so that each party and the hearing officer receive it at least 5 days before the scheduled hearing.

(4) For a telephone, video, or other electronic hearing, the following may be considered a failure to appear and result in the assessment or denial of the application for refund becoming final and not subject to appeal:

- (a) *Failure to answer the telephone for 15 minutes from the time set for the hearing;*
 (b) *Failure to free the telephone for a hearing;*
 (c) *Any other failure without good cause to be ready to proceed with the hearing as scheduled.*

.10 Final Determination.

- A. *The hearing officer shall issue a written final determination on behalf of the Administration.*
 B. *The notice of final determination shall summarize:*
 (1) *Any adjustments to the determination of fines or penalties and the reasons for the Administration's action;*
 (2) *The deadline for payment of a fine or penalty; and*
 (3) *In the case of a suspension or revocation of a license, the reason for the Administration's action;*
 C. *The final determination exhausts all administrative remedies.*

.11 Record.

The hearing officer shall create and maintain a record that includes the information set forth in State Government Article, §10-218, Annotated Code of Maryland.

.12 Appeals.

- A. *A party may appeal the final determination of the Administration to a Maryland circuit court if done so within 30 days of receipt of the final determination.*
 B. *For purposes of an appeal, the venue in the Circuit Court of Anne Arundel County shall be proper as that is where the Administration resides and carries on its regular business in Anne Arundel County.*

WILLIAM TILBURG
 Director
 Maryland Cannabis Administration

Final Action on Regulations

Symbol Key

- Roman type indicates text already existing at the time of the proposed action.
- *Italic type* indicates new text added at the time of proposed action.
- *Single underline, italic* indicates new text added at the time of final action.
- Single underline, roman indicates existing text added at the time of final action.
- ~~[[Double brackets]]~~ indicate text deleted at the time of final action.

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-219, 4-603, and 4-616, Annotated Code of Maryland

Notice of Final Action

[23-045-F]

On June 26, 2023, the Secretary of Natural Resources adopted amendments to Regulation .01 under **COMAR 08.02.11 Fishing in Nontidal Waters**. This action, which was proposed for adoption in 50:8 Md. R. 344—345 (April 21, 2023), has been adopted as proposed.

Effective Date: July 24, 2023.

JOSH KURTZ
 Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-219, 4-602, 4-603, and 4-616, Annotated Code of Maryland

Notice of Final Action

[23-036-F]

On June 26, 2023, the Secretary of Natural Resources adopted new Regulation .02 and amendments to Regulation .04 under **COMAR 08.02.11 Fishing in Nontidal Waters**. This action, which was proposed for adoption in 50:8 Md. R. 345—346 (April 21, 2023), has been adopted as proposed.

Effective Date: July 24, 2023.

JOSH KURTZ
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.20 Bait

Authority: Natural Resources Article, §§4-219 and 4-602, Annotated Code of Maryland

Notice of Final Action

[23-035-F]

On June 26, 2023, the Secretary of Natural Resources adopted amendments to Regulation .01 and new Regulation .03 under COMAR 08.02.20 Bait. This action, which was proposed for adoption in 50:8 Md. R. 349—350 (April 21, 2023), has been adopted with the nonsubstantive changes shown below.

Effective Date: July 24, 2023.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation .03B: As originally proposed, the regulation prohibited the use of all trout from being used as bait. After further review by staff and discussions with the affected stakeholders, the Department is changing the bait prohibited from all trout to only brown and brook trout instead. The affected class could have reasonably anticipated these changes based on public comment. Furthermore, the changes are less restrictive than originally proposed.

.03 Prohibited Species

A. (proposed text unchanged)

B. *Prohibited Species.*

(1)—(8) (proposed text unchanged)

(9) *[[All species of trout; and]] Brook trout;*

(10) Brown trout; and

[[10]] (11) (proposed text unchanged)

JOSH KURTZ
Secretary of Natural Resources

Title 09 MARYLAND DEPARTMENT OF LABOR Subtitle 12 DIVISION OF LABOR AND INDUSTRY

09.12.81 Elevator, Escalator, and Chairlift Safety

Authority: Public Safety Article, §§ 12-805, 12-806, and 12-809, Annotated Code of Maryland

Notice of Final Action

[22-275-F-I]

On April 19, 2023, the Commissioner of Labor and Industry adopted amendments to Regulation .02 under COMAR 09.12.81 Elevator, Escalator, and Chairlift Safety. This action, which was proposed for adoption in 50:1 Md. R. 11 (January 13, 2023), has been adopted as proposed.

Effective Date: October 2, 2023.

DEVKI K. VIRK
Commissioner of Labor and Industry

Title 10 MARYLAND DEPARTMENT OF HEALTH Subtitle 09 MEDICAL CARE PROGRAMS

10.09.09 Medical Laboratories

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

Notice of Final Action

[22-340-F-I]

On June 16, 2023, the Secretary of Health adopted amendments to Regulations .01 and .03—.07 under COMAR 10.09.09 Medical Laboratories. This action, which was proposed for adoption in 50:6 Md. R. 220—221 (March 24, 2023), has been adopted as proposed.

Effective Date: July 24, 2023.

LAURA HERRERA SCOTT
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

Notice of Final Action

[22-255-F]

On June 16, 2023, the Secretary of Health adopted:

(1) Amendments to Regulations **.01** and **.02**, the repeal of Regulations **.03** and **.05**, and amendments to and the recodification of existing Regulations **.04** and **.06—10** to be Regulations **.03** and **.04—08** under **COMAR 10.09.49 Telehealth Services**; and

(2) Amendments to Regulations **.01**, **.02**, **.05**, and **.06** under **COMAR 10.09.96 Remote Patient Monitoring**.

This action which was proposed for adoption in 49:24 Md. R. 1028—1031 (November 18, 2022) has been adopted with the nonsubstantive changes shown below.

Effective Date: July 24, 2023.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

COMAR 10.09.49.02B: In response to comments received, the Maryland Department of Health (the Department), clarifies the definition of medically necessary by replacing the existing definition for the term with reference to the definition as stated in COMAR 10.09.36.01.

COMAR 10.09.49.07B: In accordance with Ch. 382 (S.B. 534), Acts of 2023, the Preserve Telehealth Access Act of 2023, the Department updates the final date for which telehealth includes audio-only telephone conversations from June 30, 2023 to June 30, 2025.

COMAR 10.09.96.05D: In response to comments received, the Department is broadening eligibility for remote patient monitoring services by removing the requirement that the participant be at high risk for avoidable hospital utilization.

10.09.49 Telehealth Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-105.2(b), Annotated Code of Maryland; Ch. 280, Acts of 2013; Ch. 366, Acts of 2016; Ch. 367, Acts of 2016

.02 Definitions.

A. (proposed text unchanged)

B. Terms Defined.

(1)—(5) (proposed text unchanged)

(6) "Medically necessary" [[means that the service or benefit is:

(a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;

(b) Consistent with currently accepted standards of good medical practice;

(c) The most cost-efficient service that can be provided without sacrificing effectiveness or access to care; and

(d) Not primarily for the convenience of the participant, family, or provider]] has the meaning stated in COMAR 10.09.36.01.

(7)—(13) (proposed text unchanged)

.07 Limitations.

A. (proposed text unchanged)

B. A service *delivered via telehealth* does not include:

(1) An audio-only telephone conversation between a health care provider and a patient *unless provided on dates of service between July 1, 2021, and June 30, [[2023]] 2025, inclusive;*

(2)—(4) (proposed text unchanged)

C.—F. (proposed text unchanged)

10.09.96 Remote Patient Monitoring

Authority: Health-General Article, §15-103(b), Annotated Code of Maryland

.05 Participant Eligibility for Services.

A participant is eligible to receive remote patient monitoring services if:

A.—C. (proposed text unchanged)

D. The participant is at [[high]] risk for avoidable hospital utilization due to a poorly controlled *chronic disease capable of being monitored via remote patient monitoring; and*

E. (proposed text unchanged)

LAURA HERRERA SCOTT
Secretary of Health

Subtitle 15 FOOD

10.15.07 Shellfish Sanitation

Authority: Health-General Article, §§18-102, 21-211, 21-234, 21-304, and 21-346—21-350, Annotated Code of Maryland

Notice of Final Action

[22-302-F-I]

On May 19, 2023, the Secretary of Health adopted amendments to Regulation **.01** under **COMAR 10.15.07 Shellfish Sanitation**. This action, which was proposed for adoption in 49:27 Md. R. 1116 (December 30, 2022), has been adopted as proposed.

Effective Date: July 24, 2023.

LAURA HERRERA SCOTT
Secretary of Health

Title 13A STATE BOARD OF EDUCATION

Subtitle 01 STATE SCHOOL ADMINISTRATION

13A.01.08 Public Information Act Requests

Authority: General Provisions Article, §§4-101—4-601, Annotated Code of Maryland

Notice of Final Action

[23-015-F]

On June 27, 2023, the Maryland State Board of Education adopted new Regulations **.01—16** under a new chapter, **COMAR 13A.01.08 Public Information Act Requests**. This action, which was proposed for adoption in 50:7 Md. R. 313—315 (April 7, 2023), has been adopted as proposed.

Effective Date: July 24, 2023.

MOHAMMED CHOUDHURY
State Superintendent of Schools

Subtitle 01 STATE SCHOOL ADMINISTRATION

13A.01.09 Correction or Amendment of Public Records

Authority: General Provisions Article, §4-502, Annotated Code of Maryland

Notice of Final Action

[23-017-F]

On June 27, 2023, the Maryland State Board of Education adopted new Regulations **.01—11** under a new chapter, **COMAR 13A.01.09 Correction or Amendment of Public Records**. This action, which was proposed for adoption in 50:7 Md. R. 315—316 (April 7, 2023), has been adopted as proposed.

Effective Date: July 24, 2023.

MOHAMMED CHOUDHURY
State Superintendent of Schools

Subtitle 06 SUPPORTING PROGRAMS

13A.06.07 Student Transportation

Authority: Education Article, §§2-205, 5-218, and 8-410, Annotated Code of Maryland

Notice of Final Action

[23-025-F]

On June 27, 2023, the Maryland State Board of Education adopted amendments to Regulations **.06—08, .11, .12, .18, and .19** under **COMAR 13A.06.07 Student Transportation**. This action, which was proposed for adoption in 50:8 Md. R. 351—352 (April 21, 2023), has been adopted as proposed.

Effective Date: July 24, 2023.

MOHAMMED CHOUDHURY
State Superintendent of Schools

Subtitle 08 STUDENTS

13A.08.01 General Regulations

Authority: Education Article, §§2-205, 7-101, 7-101.1, 7-301, 7-301.1, 7-303—7-305, 7-305.1, 7-307, 7-308, and 8-404, Annotated Code of Maryland; Ch. 273, Acts of 2016; Federal Statutory Reference: 20 U.S.C. §§1232g and 7912

Notice of Final Action

[23-012-F]

On June 27, 2023, the Maryland State Board of Education adopted amendments to Regulation **.03** under **COMAR 13A.08.01 General Regulations**. This action, which was proposed for adoption in 50:7 Md. R. 317 (April 7, 2023), has been adopted as proposed.

Effective Date: July 24, 2023.

MOHAMMED CHOUDHURY
State Superintendent of Schools

Title 30

MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

Subtitle 08 DESIGNATION OF TRAUMA AND SPECIALTY REFERRAL CENTERS

30.08.08 Pediatric Trauma Center Standards

Authority: Education Article, §13-509, Annotated Code of Maryland

Notice of Final Action

[22-306-F]

On June 13, 2023, the Maryland State Emergency Medical Services Board adopted the repeal of existing Regulations **.01—20** and new Regulations **.01—22** under **COMAR 30.08.08 Pediatric Trauma Center Standards**. This action, which was proposed for adoption in 50:5 Md. R. 184—190 (March 10, 2023), has been adopted as proposed.

Effective Date: July 24, 2023.

THEODORE R. DELBRIDGE, M.D.
Executive Director

Withdrawal of Regulations

Title 14

INDEPENDENT AGENCIES

Subtitle 04 MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION

14.04.09 *Comprehensive Technical Assistance Program*

Authority: Economic Development Article, §10-416(d), Annotated Code of Maryland

Notice of Withdrawal

[22-082-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to adopt new Regulations **.01—04** under a new chapter, **COMAR 14.04.09 Comprehensive Technical Assistance Program**, which was published in 49:9 Md. R. 536—537 (April 22, 2022), has been withdrawn by operation of law.

GAIL S. KLAKRING
Administrator
Division of State Documents

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Preregulation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 18 BOATING—SPEED LIMITS AND OPERATION OF VESSELS

08.18.07 Chesapeake Bay

Authority: Natural Resources Article, §§8-703 and 8-704, Annotated Code of Maryland

Notice of Proposed Action

[23-123-P]

The Secretary of Natural Resources proposes to amend Regulation .02 under COMAR 08.18.07 Chesapeake Bay.

Statement of Purpose

The purpose of this action is to establish a 6-knot speed limit for the area surrounding the construction site of the Maryland Transportation Authority's Eastbound Bay Bridge Deck Replacement Project on the Western Shore of the Chesapeake Bay. This re-decking project will include replacement of the deck floor system, barrier upgrades, major structural rehabilitation of the truss superstructure, lane use signal gantry replacements and utility relocations, as well as off-site stormwater management work. The deck replacement is scheduled to be completed by winter 2025/2026. The proposed action establishes a speed limit for an area of the Western Shore of the Chesapeake Bay around the construction site. This regulation will be effective through March 31, 2026.

The proposed action is required to ensure public safety and protect human life. Without an established speed limit, the construction zone poses safety threats for all waterway users, employees, and contractors. The proposed speed limit will help protect all workers and barges from excessive wake actions. This action will positively support the project and prevent delays. Additionally, this action has been developed in cooperation with the Maryland Transportation Authority and the U.S. Coast Guard.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Chesapeake Bay — Western Shore Bay Bridge Speed Zone Regulations, Regulatory Staff, Fishing and Boating Services, Department of Natural Resources, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or email to boatingregpubliccomment.dnr@maryland.gov. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

.02 Western Shore.

A.—N. (text unchanged)

O. *Western Shore Bay Bridge Construction Area.*

(1) *Area. All of the waters enclosed by a line beginning at or near Lat. 39° 0.276' N., Long. 76° 24.347' W., then running 62° 0' to a point at or near Lat. 39° 0.444' N., Long. 76° 23.943' W., then running 145° 0' to a point at or near Lat. 39° 0.015' N., Long. 76° 23.554' W., then running 107° 0' to a point at or near Lat. 38° 59.874' N., Long. 76° 22.995' W., then running 198° 0' to a point at or near Lat. 38° 59.465' N.,*

Long. 76° 23.161' W., then running 292° 0' to a point at or near Lat. 38° 59.693' N., Long. 76° 23.878' W., then running 328° 0' to the point of beginning.

(2) The area described in §O(1) of this regulation has a 6-knot speed limit at all times.

(3) This regulation shall be effective through March 31, 2026.

JOSH KURTZ
Secretary of Natural Resources

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 24 MARYLAND HEALTH CARE COMMISSION

10.24.01 Procedural Regulations for Health Care Facilities and Services

Authority: Health-General Article, §§19-109(a)(1), 19-118(d), 19-120, 19-120.1, and 19-126, et seq., Annotated Code of Maryland

Notice of Proposed Action

[23-108-P]

The Maryland Health Care Commission proposes to repeal existing Regulations .01–.22 under COMAR 10.24.01 **Certificate of Need for Health Care Facilities** and adopt new Regulations .01–.22 under COMAR 10.24.01 **Procedural Regulations for Health Care Facilities and Services**. This action was considered at an open meeting held on April 20, 2023, a notice of which was given in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to adopt procedural regulations governing the Commission's certificate of need (CON) and other health planning programs. The proposed regulations are necessary to respond to significant statutory changes that have occurred since these regulations were last updated in 2005 and to streamline and modernize the manner in which health care capital projects are reviewed by the Commission, given changes in the health care delivery system and health care policy. The proposed regulations incorporate statutory changes to the Commission's authority over cardiac services, conversions of acute care hospitals to freestanding medical facilities, ambulatory surgery facilities, and comprehensive care facilities. In addition, the proposed regulations align the Commission's procedures for reviewing different types of health care projects, establish and revise deadlines, establish new criteria for reviewing CON applications based in health equity, and provide the Commission with additional flexibility in monitoring approved projects through implementation and addressing public health emergencies.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Caitlin E. Tepe, Assistant Attorney General, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, MD 21215, or call 410-764-3284, or email to caitlin.tepe@maryland.gov. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Health Care Commission during a public meeting to be held on September 21, 2023, at 1 p.m., at 4160 Patterson Avenue, Baltimore, MD 21215.

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Acquisition" means:

(a) Any transfer of stock or assets that results in a change of the person or persons who control a health care facility; or

(b) The transfer of any stock or ownership interest in excess of 25 percent.

(2) "Adversely affected", for purposes of determining interested party status in a Certificate of Need review, as defined in §B(35) of this regulation, means that a person:

(a) Is authorized to provide the same service as the applicant, in the same planning region, or contiguous planning region if the proposed new facility or service could reasonably provide services to residents in the contiguous area, and can demonstrate that the approval of the application:

(i) Would materially affect the quality of care at a health care facility that the person operates, such as by causing a reduction in the volume of services when volume is linked to maintaining quality of care; or

(ii) Would result in a substantial depletion of essential personnel or other resources at a health care facility that the person operates; or

(b) Can demonstrate to the reviewer that a health care facility operated by the person could suffer a potentially detrimental impact from the approval of a project before the Commission, in an issue area over which the Commission has jurisdiction, such that the reviewer, in the reviewer's sole discretion, determines that the person should be qualified as an interested party in the review.

(3) "Aggrieved party" means:

(a) An applicant or interested party who has submitted written exceptions to a proposed decision to the Commission and would be adversely affected by the final decision of the Commission; or

(b) The Secretary.

(4) Ambulatory Surgery Center:

(a) "Ambulatory surgery center" or "ASC" means any center, service, office, facility, or office of one or more health care practitioners, a group practice, or a non-rate-regulated center owned by a hospital that:

(i) Has no more than two operating rooms;

(ii) Operates primarily for the purpose of providing surgical services to patients who do not require overnight hospitalization; and

(iii) Seeks reimbursement from payors for the provision of ambulatory surgical services.

(b) "Ambulatory surgery center" or "ASC" includes the following subcategories:

(i) An ASC-P, which has only procedure rooms;

(ii) An ASC-1, which has one operating room; and

(iii) An ASC-2, which has two operating rooms.

(5) "Ambulatory surgical facility" means any center, service, office, facility, or office of one or more health care practitioners or a group practice that:

(a) Has three or more operating rooms;

(b) Operates primarily for the purpose of providing surgical services to patients who do not require overnight hospitalization; and

(c) Seeks reimbursement from a third-party payor as an ambulatory surgical facility.

(6) "Approved bed" means a bed approved by the Commission in a Certificate of Need, but not yet licensed.

(7) "Bed capacity" or "physical bed capacity" means the total number of beds that a health care facility can set up and staff in space designed for and licensable for use by patients requiring an overnight stay at the facility.

(8) "By or on behalf of" includes a capital expenditure that affects the physical plant, service volume, or service capacity of a health care facility or health maintenance organization regardless of the source of the funds.

(9) "Capital expenditure" means:

(a) An expenditure, including predevelopment costs, which:

(i) Is made as part of an acquisition, improvement, expansion, or physical plant replacement;

(ii) Results in a change or relocation that would require a CON under Regulation .02A(2)—(4) of this chapter; and

(iii) Is made by or on behalf of a health care facility that under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is made to obtain any physical plant for a facility by lease or comparable arrangement;

(b) A donation of a physical plant to a health care facility, if a Certificate of Need would be required for an expenditure by the health care facility to acquire the physical plant directly; or

(c) A transfer of a physical plant to a facility for less than fair market value, if the transfer of the physical plant at fair market value would be a capital expenditure.

(10) "Center for Health Care Facilities Planning and Development" means that center in the Commission that acts as the entry and information point for applications for Certificate of Need, requests for an exemption from Certificate of Need review, or other health care facility-related matters requiring action by the Commission, or its staff, as provided in this chapter.

(11) "Certificate of Conformance" means an approval issued by the Commission under Health-General Article, §19-120.1, Annotated Code of Maryland, that allows an acute general hospital to establish emergency percutaneous coronary intervention (PCI) services or elective PCI services without a Certificate of Need.

(12) "Certificate of Need" or "CON" means a certification of public need issued by the Commission under Health-General Article, Title 19, Subtitle 1, Annotated Code of Maryland.

(13) "Certificate of Ongoing Performance" means an approval issued by the Commission that the cardiac surgery services, emergency PCI services, or elective PCI services provided by an acute general hospital meet standards evidencing continued quality under Health-General Article, §19-120.1, Annotated Code of Maryland.

(14) "Commission" means the Maryland Health Care Commission.

(15) "Comparable" when used to determine whether two or more CON applications are subject to comparative review means that the proposed projects are in the same health planning region and involve the addition or expansion of at least one of the same medical services.

(16) "Comparative review" means a review in which two or more comparable CON applications are reviewed together and ranked based on each application's satisfaction of the CON review criteria because the most recently published need projections do not support the implementation of all comparable projects.

(17) "CON-approved service" means any health care service for which a CON was obtained, including:

(a) Medical services;

(b) Cardiac surgery services;

(c) Organ transplant services;

(d) Burn treatment services; and

(e) Neonatal intensive care services.

(18) "Consolidation" means the reconfiguration of two or more health care facilities within a merged asset system such that:

(a) The health care facilities in the merged asset system are combined and the total number of health care facilities of the merged asset system is reduced; or

(b) The medical services or bed capacity are reallocated among two or more health care facilities of the merged asset system.

(19) "Contested review" means a review in which a person has been recognized as an interested party.

(20) "Department" means the Maryland Department of Health.

(21) "Determination of coverage" means the written determination in accordance with Regulation .14A of this chapter whether CON or other Commission review is required for a project.

(22) "Executive Director" means the person appointed chief administrative officer of the Commission in accordance with Health-General Article, §19-106, Annotated Code of Maryland.

(23) "Existing health care facility" means a health care facility that is licensed by the Department.

(24) "Freestanding medical facility" has the meaning stated in Health-General Article, §19-3A-01, Annotated Code of Maryland.

(25) "General hospice care program" has the meaning stated in Health-General Article, §19-901, Annotated Code of Maryland.

(26) Health Care Facility:

(a) "Health care facility" means:

(i) A hospital, as defined in Health-General Article, §19-301, Annotated Code of Maryland;

(ii) A limited service hospital, as defined in Health-General Article, §19-301, Annotated Code of Maryland;

(iii) A related institution, as defined in Health-General Article, §19-301, Annotated Code of Maryland;

(iv) An ambulatory surgical facility;

(v) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;

(vi) A home health agency, as defined in Health-General Article, §19-401, Annotated Code of Maryland;

(vii) A hospice, as defined in Health-General Article, §19-901, Annotated Code of Maryland;

(viii) A freestanding medical facility, as defined in Health-General Article, §19-3A-01, Annotated Code of Maryland;

(ix) A comprehensive care facility, except as provided by Regulation .03 of this chapter and Health-General Article, §19-114(d)(2), Annotated Code of Maryland; and

(x) Other health institutions, services, or programs that may be specified as requiring a CON under State law.

(b) "Health care facility" does not mean:

(i) A hospital or related institution operated, or listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts;

(ii) A kidney disease treatment facility, or the kidney disease treatment stations and services provided by or on behalf of a hospital, if the facility or the services do not include kidney transplant services or programs; or

(iii) The office of one or more individuals licensed to practice dentistry under Health Occupations Article, Title 4, Annotated Code of Maryland, for the purposes of practicing dentistry.

(27) "Health care project" means a health care project requiring a Certificate of Need as set forth in Regulation .02 of this chapter.

(28) "Health care services" means clinically-related patient services, including medical services.

(29) "Health maintenance organization" or "HMO" means a health maintenance organization under Health-General Article, §19-701, Annotated Code of Maryland.

(30) "Health planning region" means the area used for regulation of a particular service as provided in the State Health Plan.

(31) "Holder" means the applicant or applicants to whom the Commission awarded a Certificate of Need, an exemption from Certificate of Need, or other Commission approval for a project that has not received first use approval or, if necessary, a license from the Department for that project.

(32) Home Health Agency:

(a) "Home health agency" has the meaning stated in Health-General Article, §19-401(b), Annotated Code of Maryland.

(b) "Home health agency" includes a parent home health agency, as defined by the Centers for Medicare and Medicaid Services under 42 CFR §484.2.

(33) "Hospital capital threshold" has the meaning stated in Health-General Article, §19-120(a)(4), Annotated Code of Maryland.

(34) "Initiation of construction" means:

(a) For a new health care facility or expansion of an existing health care facility, that an approved project has:

(i) Obtained all permits and approvals considered necessary by applicable federal, State, and local authorities to initiate construction;

(ii) Completed all necessary preconstruction site work; and

(iii) Started the installation of the foundation system with placement of permanent components such as reinforcing steel, concrete, and piles; and

(b) For the renovation of an existing health care facility, that an approved project has:

(i) Obtained all permits and approvals considered necessary by applicable federal, State, and local authorities to initiate renovation; and

(ii) Started the demolition or relocation of affected services necessary to undertake the renovation project.

(35) "Interested party" means a person recognized by a reviewer as an interested party, including:

(a) Any applicant who has submitted a competing application in a comparative review;

(b) The staff of the Commission;

(c) A local health department in the jurisdiction or, in the case of regional services, in the planning region, in which the proposed facility or service is to be offered;

(d) In the review of a replacement acute general hospital project proposed by or on behalf of a regional health system that serves multiple contiguous jurisdictions, a jurisdiction within the region served by the regional health system that does not contain the proposed replacement acute general hospital project; and

(e) A person who has demonstrated to the reviewer that it meets the definition of adversely affected by the approval of a proposed project.

(36) "Intermediate care" means:

(a) A planned regimen of 24-hour professional directed evaluation, observation, medical monitoring, and addiction treatment in an inpatient setting for individuals with substance abuse disorder, including American Society of Addiction Medicine (ASAM) Level 3.7 medically

monitored intensive inpatient services; and

(b) Residential care, treatment, or custody of individuals with intellectual disability or persons with related conditions.

(37) "Jurisdiction" means the 23 counties of Maryland and Baltimore City.

(38) Licensed Bed Capacity:

(a) "Licensed bed capacity" means the number of health care facility beds in any of the medical service categories or subcategories, as they appear in the Commission's inventories of licensed service capacity.

(b) "Licensed bed capacity" for acute general hospitals:

(i) Means the capacity authorized by the Secretary under Health-General Article, §19-307.2, Annotated Code of Maryland;

(ii) Does not mean the number of holding beds to support hospital emergency services, bassinets, beds dedicated to observation of patients, an outpatient service, or recovery beds to support ambulatory surgical services.

(39) "Limited service hospital" means a health care facility that:

(a) Is licensed as a hospital;

(b) Changes the type or scope of health care services offered by eliminating the facility's capability to admit or retain patients for overnight hospitalization;

(c) Retains an emergency or urgent care center; and

(d) Complies with the regulations adopted by the Secretary under Health-General Article, §19-307.1, Annotated Code of Maryland.

(40) "Local health department" means the health department in a jurisdiction or a body designated by that jurisdiction to perform health planning functions.

(41) "Long-term significant relationship" means a relationship characterized by mutual economic dependence, demonstrated by evidence such as a joint lease or mortgage or power of attorney, and evidence of common legal residence shown by driver's licenses, voter registration, or other identification.

(42) "Maryland Health Care Commission" means the agency established by Health-General Article, Title 19, Subtitle 1, Annotated Code of Maryland.

(43) "Medical service" means:

(a) Any of the following categories of health care services as they appear in the Commission's inventories of service capacity:

(i) Medical/surgical/gynecological/addictions;

(ii) Obstetrics;

(iii) Pediatrics;

(iv) Psychiatry;

(v) Rehabilitation;

(vi) Chronic care;

(vii) Comprehensive care;

(viii) Extended care;

(ix) Intermediate care; or

(x) Residential treatment center care; or

(b) A subcategory of the rehabilitation, psychiatry, comprehensive care, or intermediate care categories of medical services for which the State Health Plan provides a need projection methodology or specific standards.

(44) "Merged asset system" means an entity comprised of one or more regulated health care facilities under common ownership or control.

(45) "Merger" means the union of two or more health care facilities by the transfer of all the property of one or more of them to one of them, which continues in existence, the others being merged therein.

(46) "Multiphased plan of construction" means a plan of construction for an addition, replacement, modernization, relocation, or conversion of an existing health care facility that involves distinct elements of construction, demolition, or renovation that require sequential implementation such that one element can be initiated before subsequent elements of the overall project can be initiated.

(47) "Operating room" means a sterile room in a surgical suite that meets the requirements of a restricted area and is designated and equipped for performing surgical operations or other invasive procedures that require an aseptic field.

(48) "Other Commission approval" means approval of a Certificate of Conformance, Certificate of Ongoing Performance, or an exemption from CON review.

(49) "Partial closing" or "partial closure" means the closure or decommission of one or more but not all CON-approved services offered by a health care facility.

(50) "Participating entity" means a person recognized by the Executive Director as a participating entity and may include:

(a) A third-party payor including:

(i) An insurer or nonprofit health service plan that holds a certificate of authority and provides health insurance policies or contracts in Maryland;

(ii) A health maintenance organization that holds a certificate of authority in Maryland;

(iii) A union that is providing a health plan to union members on behalf of an employer in a jurisdiction in which the proposed project will be located or from which an existing health care facility seeks to relocate;

(iv) A pharmacy benefit manager; and

(v) A self-insured employer offering health benefits through the Employer Retirement Insurance Security Act of 1974;

(b) A municipality where the proposed project will be located or from which an existing health care facility seeks to relocate; or

(c) In the case of a hospital project, a local health department in a jurisdiction that borders a jurisdiction in which a proposed facility or service will be located.

(51) "Person" includes an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind and any partnership, firm, association, limited liability company, limited liability partnership, public or private corporation, or other entity.

(52) Personal Physician.

(a) "Personal physician" means a physician licensed to practice medicine who:

- (i) Was chosen by an individual;
- (ii) Has an established physician-patient relationship with the individual; and
- (iii) Has provided health care services to the individual.

(b) "Personal physician" does not mean an owner of, an employee of, a person under contract with, or a person who has a material financial interest in a continuing care retirement community, its management company, or related entity.

(53) Predevelopment Costs.

(a) "Predevelopment costs" means all costs related to the preliminary development of a project, which include, but are not limited to, the costs of preliminary plans, studies, surveys, architectural designs, plans, reports, application fees, legal fees, financing fees, consulting fees, working drawings, or specifications undertaken in preparation for the development or offering of a health care project.

(b) "Predevelopment costs" does not include activities routinely undertaken by a health care facility as a part of its internal management or long-range planning process.

(54) "Primary service area" means:

(a) The Maryland postal ZIP code areas from which the first 60 percent of a hospital's patient discharges originate during the most recent 12-month period, where:

(i) The discharges from each ZIP code area are ordered from largest to smallest number of discharges; and

(ii) Two or more ZIP code areas having the same numbers of discharges are ordered from the largest to smallest based on the percentage of the hospital's discharges originating from the ZIP code area in the most recent 12-month period;

(b) Point ZIP codes physically within any of the ZIP code areas designated in §B(54) of this regulation;

(c) Maryland ZIP code areas physically contiguous to any of the ZIP codes designated in §B(54) of this regulation that provided 50 percent or more of their discharges to the hospital in the most recent 12-month period; and

(d) For a merged asset system, the ZIP code areas that are tabulated separately for each hospital, and all ZIP code areas identified for each hospital which are included in the primary service area of the merged asset system.

(55) Public Obligation.

(a) "Public obligation" means a bond, note, evidence of indebtedness, or other obligation to repay borrowed money issued by:

(i) The Maryland Health and Higher Educational Facilities Authority;

(ii) The State, or any agency, instrumentality, or public corporation of the State;

(iii) A governmental entity described in Local Government Article, §19-205(a), Annotated Code of Maryland;

(iv) The Mayor and City Council of Baltimore; or

(v) A municipal corporation.

(b) "Public obligation" does not include an obligation, or portion of an obligation, if:

(i) The principal of and interest on the obligation or the portion of the obligation is insured by an effective municipal bond insurance policy and issued on behalf of a hospital that voluntarily closed in accordance with Health-General Article, §19-120(l); and

(ii) The proceeds of the obligation or the portion of the obligation are used to finance wholly or partly a facility or part of a facility that is used primarily to provide outpatient services at a location other than the hospital or that is used primarily by physicians who are not employees of the hospital to provide services to nonhospital patients.

(56) "Regional health system" means a hospital whose primary or secondary service area cover multiple jurisdictions.

(57) "Rehabilitation facility" means an inpatient facility that:

(a) Is organized for the primary purpose of assisting in the rehabilitation of persons with disabilities through an integrated program of medical and other services, which are provided under competent professional supervision;

(b) Is licensed as a special rehabilitation hospital; and

(c) Complies with the regulations adopted by the Secretary under Health-General Article, Title 19, Subtitle 3, Annotated Code of Maryland.

(58) "Religious order" means an incorporated, not-for-profit organization:

(a) That is owned or is wholly operated by an entity founded and operating for the sole purpose of carrying out religious precepts; and

(b) Whose members have taken the vows required by the order and have devoted their lives to religious service, to the exclusion of lay life and activities.

(59) "Residential treatment center" has the meaning stated in Health-General Article, §19-301(p), Annotated Code of Maryland.

(60) "Reviewer" means one Commissioner, appointed by the Executive Director of the Commission, who:

(a) Evaluates a Certificate of Need application;

(b) Prepares a proposed decision for the consideration of the full Commission; and

(c) Serves as presiding officer at an evidentiary hearing on an application or applications.

(61) "Secretary" means the Secretary of Health.

(62) "Service area" means the geographic area from which a health care facility or provider draws its patients. Unless otherwise specified in a relevant State Health Plan chapter, service area means the zip code areas from which the greatest number of patients reside, which, when ordered from largest to smallest, comprise the top 85 percent of patients who receive a specific service at a health care facility for the most recent 12-month period of data available.

(63) "State Health Plan" means the State Health Plan for Facilities and Services and its modifications or additions, adopted by the Commission pursuant to Health-General Article, §19-118, Annotated Code of Maryland.

.02 Coverage.

A. Except as provided in Regulations .03—.05 of this chapter or as otherwise provided by law, a CON is required before:

(1) A new health care facility is built, developed, or established;

(2) An existing health care facility is moved to another site, unless the relocation is:

(a) The result of a partial or complete replacement of an existing hospital or related institution, as defined in Health-General Article, §19-301, Annotated Code of Maryland, and is to another part of the site or immediately adjacent to the site of the existing hospital or related institution;

(b) Of an existing health care facility owned or controlled by a merged asset system, subject to the provisions of Regulations .03E or .04A(2) of this chapter, whichever is applicable; or

(c) By a hospital converting to a limited service hospital, subject to the provisions of Regulation .04A(4) of this chapter; and is to a site within the immediate area, as determined by the Commission, as described in §B of this regulation;

(3) The bed capacity of a health care facility is changed;

(4) The type or scope of any health care service offered by a health care facility is changed, and the change:

(a) Establishes a new medical service;

(b) Establishes a new cardiac surgery, organ transplant surgery, burn treatment, or neonatal intensive care program;

(c) Establishes a new home health agency, general hospice care program, or ambulatory surgical facility;

(d) Builds or expands surgical capacity in a hospital, freestanding medical facility subject to rate regulation by the Health Services Cost Review Commission, or ambulatory surgical facility;

(e) Results in:

(i) The establishment of a new parent home health agency; or

(ii) The expansion of an existing home health agency into a jurisdiction in which it was not previously authorized by the Commission to operate;

(f) Eliminates an existing medical service; or

(g) Closes an existing health care facility or converts it to a non-health-related use; or

(5) A hospital makes a capital expenditure, as defined in Health-General Article, §19-120(k), Annotated Code of Maryland, and in this chapter, that exceeds the hospital capital threshold, including a capital expenditure:

(a) For the relocation of an existing health care facility owned or controlled by a merged asset system, except as provided in Regulation .03E of this chapter; and

(b) By a relocated health care facility to permit the facility to offer a new health care service for which CON is otherwise required.

B. Definition of Immediate Area for Limited Service Hospital Conversion.

(1) For the purpose of §A(2)(c) of this regulation, "immediate area" means a location on the site of the existing hospital, or on an adjacent site.

(2) A hospital may provide evidence as to why the Commission should approve a site for a limited service hospital beyond the immediate area of the converting hospital.

(3) The Commission may not approve a site for a limited service hospital unless the site is within:

(a) A 5-mile radius of the site of the hospital proposing the conversion; and

(b) Its primary service area.

C. A person may not divide a project into component parts except as permitted by this chapter. Commission staff shall issue a determination regarding whether two or more apparently individual projects actually represent component parts of a single project, considering, among other things, the timing of the projects, the functional areas of a facility to be affected, the number of construction contracts entered into, and whether expenditures under one contract depend upon the completion of a prior contract.

D. Proposed Change After Acquisition. If a person acquires an existing health care facility or service without a CON, in accordance with Regulation .03 of this chapter, and proposes to change the health care services it provides or its bed capacity, the proposed change requires review and approval in accordance with §A of this regulation.

E. A health maintenance organization, or health care facility that either controls, directly or indirectly, or is controlled by an HMO or a group of HMOs, shall obtain a CON before it builds, develops, operates, or participates in building, developing, or operating:

(1) A hospital; or

(2) Any other health care project for which a CON is required under §A of this regulation, unless at least 90 percent of the patients who will receive health care services from the project will be individuals enrolled in that health maintenance organization.

.03 Non-Coverage by Certificate of Need or Other Commission Approval.

A. Acquisition of an Existing Health Care Facility.

(1) At least 30 days before closing on a contract to acquire a health care facility, the person acquiring the facility shall notify the Commission in writing, with a copy to the local health officer in each affected jurisdiction and the appropriate State licensing agency, of the intent to acquire the facility, and include the following information:

(a) The health care services provided by the facility;

(b) The bed capacity, or jurisdiction served, if a community-based service;

(c) Complete organizational charts that describe the ownership of the health care facility prior to and after the proposed acquisition; and

(d) Any other information required by this chapter, by the State Health Plan chapter applicable to the health care facility, or requested by Commission staff.

(2) Deemed Approval.

(a) Except for acquisitions of a comprehensive care facility established under §I of this regulation, CON review is not required if Commission staff does not issue either a determination of coverage or notice that timely or complete notice was not received within 60 days of receipt of a notice from the person acquiring the health care facility.

(b) Upon request, Commission staff shall provide written confirmation that an acquisition was deemed approved under this regulation.

(3) Commission staff's determination that CON or other Commission review is not required remains valid for 180 days from its issuance. A new determination of coverage shall be required if the acquisition is not completed within that time period.

(4) If the acquisition is completed, the buyer shall sign a notice of completion of acquisition and file it with the Commission within 15 days of the completion of the acquisition.

B. Acquisition of a Comprehensive Care Facility, Home Health Agency, or Hospice.

(1) In addition to providing the information required in §A of this regulation, a person seeking to acquire a comprehensive care facility, home health agency, or hospice shall:

(a) Identify each person with an ownership interest in the acquiring entity or a related or affiliated entity, including

(i) The percentage of ownership interest of each such person; and

(ii) The history of each such person's experience in ownership or operation of health care facilities;

(b) Provide information on corporate structure and affiliations of the acquirer, purchase price, source of funds, and other relevant data as requested;

(c) Affirm that the services provided will not change as a result of the proposed acquisition and that its commitment to Medicaid participation, if any, will not decrease as a result of the proposed acquisition; and

(d) Affirm under penalties of perjury, that within the last 10 years no owner or former owner of the purchaser, or member of senior management or management organization, or a current or former owner or senior manager of any related or affiliated entity has been convicted of a felony or crime, or pleaded guilty, nolo contendere, entered a best interest plea of guilty, received a diversionary disposition regarding a felony or crime, and that the purchaser or a related or affiliated entity has not paid a civil penalty in excess of \$10 million dollars that relates to the ownership or management of a health care facility.

(2) *Disqualification for Acquisition.* A comprehensive care facility, home health agency, or hospice may not be acquired by an entity if an owner or member of senior management or an owner or member of senior management of a related or affiliated entity of the acquiring entity has been convicted of a felony or crime or pleaded guilty, nolo contendere, entered a best interest plea of guilty, or received a diversionary disposition regarding a felony or crime within the last 10 years, unless:

(a) All of the individuals involved in the fraud or abuse are no longer associated with the entity or any of its related or affiliated entities;

(b) Each entity has fully complied with each applicable plan of correction; and

(c) If applicable, each entity has fully complied with each condition of the imposition of a civil penalty or agreed disposition.

(3) In an acquisition of a home health agency or hospice, the purchaser may only acquire the authority to provide services in jurisdictions for which the facility being acquired was granted a CON or is otherwise recognized by the Commission as having legal authorization.

C. Closure of a Health Care Facility.

(1) A CON is not required to close a health care facility or part of a health care facility, including a State hospital, if it provides notice to the Commission at least 90 days prior to the closing or 45 days prior to the partial closing and complies with the provisions of §C(2)–(4) of this regulation, if applicable.

(2) An acute general hospital shall hold a public informational hearing in accordance with Regulation .04D of this chapter if the hospital:

(a) Files a notice of the proposed closing of the hospital with the Commission; or

(b) Is located in a jurisdiction with fewer than three acute general hospitals and files a notice of the partial closing of the hospital.

(3) The Commission may require a health care facility not covered by §C(2) of this regulation to hold a public information hearing in accordance with Regulation .04D of this chapter.

(4) If a hospital that intends to close has outstanding public obligations issued on its behalf, written notice of its intended closing shall be given to the Maryland Health and Higher Educational Facilities Authority and the Health Services Cost Review Commission by the:

(a) Commission, within 5 days after receiving a written notification by the hospital of its intended closure;

(b) Hospital, within 10 days of filing with the Commission its written notification of its intended closure, along with a written statement of all public obligations issued on behalf of the hospital that provides the information required by Economic Development Article, §10-346(a)(2), Annotated Code of Maryland; and

(c) Commission, that the hospital held a public informational hearing in consultation with the Commission in the jurisdiction where the hospital is located.

D. Temporary Delicensure or Suspension of Bed Capacity, Health Care Facility, or CON-Approved Service.

(1) A temporary delicensure of licensed bed capacity or a licensed and operating health care facility or a temporary suspension of a CON-approved service does not require CON review, and the Commission will retain the bed capacity or health care facility on its inventory or permit the reimplementation of the CON-approved service without obtaining a CON for up to 1 year, if the owner or licensed operator:

(a) Provides written notice to the Commission at least 30 days before the proposed temporary delicensure or temporary service suspension;

(b) Identifies good cause for the proposed temporary delicensure or temporary service suspension;

(c) States the intention either to bring the bed capacity back onto the facility's license or relicense the health care facility or reimplement the CON-approved service at the end of the 1-year period, or to notify the Commission that it intends to take another of the actions permitted under this subsection; and

(d) Has received authorization from the Executive Director for the temporary delicensure or temporary service suspension.

(2) Bed capacity or a facility that has been authorized by the Commission to be temporarily delicensed or a CON-approved service that has been authorized by the Commission to be temporarily suspended is not subject to the provisions of this section:

(a) During the pendency at the Commission of a letter of intent to apply or an application for CON approval involving the temporarily delicensed bed capacity or facility or the temporarily suspended CON-approved service;

(b) If the Commission has issued a Certificate of Need to reimplement the facility's temporarily delicensed bed capacity or the facility's temporarily suspended CON-approved service;

(c) If the Commission has approved a request pursuant to Regulation .03 or .04 of this chapter to reimplement the bed capacity, facility or CON-approved service, and has determined that the bed capacity, facility, or CON-approved service may be reimplemented without a CON or other Commission approval, including but not limited to actions that may be undertaken by a merged asset system of which the facility is a member;

(d) If the Commission receives a notice of acquisition of the temporarily delicensed bed capacity or facility and the buyer and seller timely complete the acquisition, in accordance with Regulation .03 of this chapter; or

(e) If the Commission receives written notification that the owner or operator of the temporarily delicensed bed capacity or facility has applied for relicensure or reimplementation of the temporarily suspended CON-approved service.

(3) The requirements and procedures in this subsection do not apply to:

(a) A proposal to close, on either a temporary or a permanent basis:

(i) An acute general hospital or part of a hospital, including a medical service, in a jurisdiction with fewer than three acute general hospitals; or

(ii) A health care facility that provides any medical service approved by the Commission as a regional or Statewide health resource; or

(b) A temporary interruption of a CON-approved service that does not exceed 30 days.

(4) This section does not substitute any notice or approvals that may be required from another body that regulates the bed capacity, health care facility, or CON-approved service.

(5) A health care facility may not request authorization by the Commission to temporarily delicense bed capacity or the entire health care facility or to temporarily suspend a CON-approved service more than one time in a 1-year period.

(6) No fewer than 30 days before the end of the 1-year or other applicable period, a health care facility that has temporarily delicensed bed capacity or its entire facility or has temporarily suspended a CON-approved service shall notify the Commission that, before the end of the 1-year or other applicable period, it will:

(a) Apply to relicense the bed capacity or the entire facility temporarily delicensed or reimplement the CON-approved service temporarily suspended pursuant to this subsection;

(b) Submit and receive the Executive Director's approval of a specific plan for the relicensure of the bed capacity or facility or for the reimplementation of the temporarily suspended CON-approved service, that:

(i) Imposes stated time frames by which steps toward the relicensure of the bed capacity or facility or reimplementation of the service will be accomplished, or the bed capacity, facility, or service will be deemed abandoned; and

(ii) May be revised upon a proposal by the owner or operator, with the approval of the Executive Director;

(c) File a letter of intent, followed within 60 days by a Certificate of Need application, or request the applicable level of Commission action pursuant to Regulations .03 and .04 of this chapter, for the relocation of the bed capacity or facility, or for a capital expenditure deemed necessary to relicense the temporarily delicensed beds or facility or necessary to reimplement the temporarily suspended CON-approved service;

(d) Execute a binding contract to transfer ownership of the health care facility, if the requirements of §A of this regulation are met;

(e) Execute a binding contract to transfer ownership of the previously licensed bed capacity, contingent on the filing within 90 days for those filings not subject to a published review cycle or upon the Commission's next published review schedule of a letter of intent to apply for CON approval, or other applicable level of Commission action pursuant to Regulations .03 and .04 of this chapter if required, to relocate the bed capacity; or

(f) Relinquish the bed capacity or the authorization to provide the CON-approved service, or seek the appropriate Commission approval to delicense and permanently close the health care facility.

(7) The Executive Director may extend the period of a temporary delicensure or temporary service suspension under this subsection beyond 1 year for good cause.

(8) An application for a CON to reimplement at another location any previously operating bed capacity that has not operated for 2 or more years shall demonstrate that the bed capacity is needed in the jurisdiction.

(9) If, at the end of the 1-year period or other time period permitted under this section, the requirements of §C(5) or (7) of this regulation have not been met, no request for an extension of time has been granted pursuant to §C(6) of this regulation, and the previously delicensed bed capacity or facility has not been relicensed or the previously suspend service has not been reimplemented, the bed capacity, health care facility, or service is deemed abandoned by its owner or operator.

E. A CON is not required to relocate an existing health care facility owned or controlled by a merged asset system, if:

(1) The proposed relocation is not across jurisdictional boundaries and is to a site in:

(a) The primary service area of the hospital to be relocated; or

(b) The service area of the non-hospital health care facility to be relocated;

(2) At least 45 days before the proposed relocation, notice is filed with the Commission, which will publish notice of the proposed relocation in the Maryland Register and a newspaper of general circulation in the affected area; and

(3) The relocation of the existing health care facility does not:

(a) Change the type or scope of health care services offered; and

(b) In the case of a hospital, require a capital expenditure that exceeds the hospital capital threshold, except as provided in §J of this regulation.

F. Change in Bed Capacity.

(1) A CON is not required to increase or decrease bed capacity if:

(a) For a health care facility that is not an acute general hospital, the change does not exceed ten beds or 10 percent of the facility's total bed capacity, whichever is less, and the facility's licensed bed capacity has not changed in the preceding 2 years;

(b) For a special rehabilitation hospital or a residential treatment center, the change does not exceed ten beds or 40 percent of its current bed capacity, whichever is less, and the facility's licensed bed capacity has not changed in the preceding 2 years;

(c) For an acute general hospital located in a jurisdiction with three or more acute general hospitals, the change:

(i) Is between hospitals in a merged asset system located within the same health planning region;

(ii) Does not involve comprehensive care or extended care beds;

(iii) Does not occur earlier than 45 days after a notice of intent to reallocate bed capacity is filed with the Commission; and

(iv) Does not create a new health care service through the relocation of beds from one jurisdiction to another jurisdiction pursuant to this subsection;

(d) The change in bed capacity is the result of the annual recalculation of licensed bed capacity in acute general hospitals provided for under Health-General Article, §19-307.2, Annotated Code of Maryland;

(e) For an existing medical service provided by an acute general hospital:

(i) The total bed capacity of the hospital does not increase;

(ii) The change is maintained for at least a 1-year period, unless modified pursuant to CON or exemption from CON, or as a result of the annual recalculation of hospital licensed bed capacity required at Health-General Article, §19-307.2, Annotated Code of Maryland; and

(iii) The hospital notifies the Commission at least 45 days before the proposed change in bed capacity of its medical services; or

(f) At least 45 days before increasing or decreasing bed capacity, written notice of the intent to change bed capacity is filed with the Commission, and the increase or decrease in bed capacity will occur in:

(i) An existing general hospice that has a current license issued by the Secretary and involves an increase in bed capacity for the provision of inpatient hospice care under the facility's current license; or

(ii) An existing intermediate care facility that offers residential or intensive substance-related disorder treatment services for withdrawal management and treatment under the facility's current license issued by the Secretary.

(2) Except as otherwise provided in this regulation, a CON is not required to decrease bed capacity at a health care facility if at least 45 days before decreasing bed capacity, written notice of the intent to change bed capacity is filed with the Commission.

G. A CON is not required for a non-hospital health care facility project by a health maintenance organization if:

(1) At least 90 percent of the patients who will receive health care services from the facility are enrolled in the health maintenance organization;

(2) The health maintenance organization requests a determination of coverage from Commission staff that describes its proposed project, including its street address, and the health care service to be provided; and

(3) Commission staff issues a determination that CON or other Commission review is not required.

H. A home health agency is not required to obtain a CON to open a branch office, as defined by the Centers for Medicare and Medicaid Services at 42 CFR §484.2, although notice to the Commission is required.

I. Religious Orders.

(1) A CON is not required before a religious order seeks licensure to operate a comprehensive care facility for the exclusive use of members of that religious order, provided that the religious order seeks and receives a determination of coverage from Commission staff that a CON is not required.

(2) The request for a determination of coverage shall provide the following:

(a) The name and address of the facility;

(b) The number of beds in the facility;

(c) The name of the religious order that will own and operate the facility;

(d) An affirmation that the facility will be owned and operated by the religious order for the exclusive use of its members; and

(e) Agreement to participate in the Maryland Long-Term Care Survey, authorized by COMAR 10.24.03.

(3) Commission staff shall issue a determination that either CON review is not required, with or without conditions, or that CON review is required for stated reasons.

J. Hospital Capital Expenditures in Excess of the Hospital Capital Threshold.

(1) A CON is not required by a hospital before it obligates an amount exceeding the hospital capital threshold for capital expenditures for physical plant construction or renovation, or before it receives a donated physical plant whose appraised value exceeds the hospital capital threshold, under the following circumstances:

(a) The capital expenditure may be related to patient care.

(b) The capital expenditure does not require, over the entire period or schedule of debt service associated with the project or plant, a total cumulative increase in patient charges or hospital rates of more than \$1,500,000 for the capital costs associated with the project.

(c) At least 45 days before an obligation is made or the physical plant is donated, the hospital provides notice to the Commission and to the Health Services Cost Review Commission, in the form of a written request for determination of coverage, as provided in Regulation .14A of this chapter, which shall contain the following information:

(i) A description of the proposed capital project, including whether it involves new construction, renovation of or additions to the existing physical plant, or the donation of a physical plant, with any necessary adaptations;

(ii) The total capital costs associated with the project;

(iii) The sources and uses of funds to be applied to the project, including hospital equity contributions, if applicable, as documented by audited financial statements of the hospital and relevant subsidiary corporations, if any, from which funds are to be taken;

(iv) A description of the financing arrangement, if applicable, for the proposed project, including the debt service schedule; and

(v) A statement by one or more persons authorized to represent the hospital that the hospital does not require a total cumulative increase in patient charges or hospital rates of more than \$1,500,000 for the capital costs associated with the project.

(2) After consultation with the Health Services Cost Review Commission, the Commission shall issue a determination whether CON review is required within 45 days after it receives the information specified in this section. If Commission staff does not issue a determination within 60 days of receipt of all relevant financial information by the Commission and by the Health Services Cost Review Commission, the Commission is considered to have issued a determination that approval of the capital expenditure is not required by the Commission or by the Health Services Cost Review Commission.

(3) Commission staff shall issue a determination that either CON review is not required, with or without conditions, or that CON review is required for stated reasons.

K. Continuation of Specific Exception from Certificate of Need for Continuing Care Retirement Communities.

(1) A comprehensive care facility on the campus of a continuing care retirement community is excepted from CON review, provided that the requirements of Health-General Article, §19-114(d)(2)(ii)(1), Annotated Code of Maryland, and this chapter are met, and that the number of

comprehensive care beds located on the campus of the continuing care retirement community does not exceed:

(a) 20 percent of the number of independent living units at a continuing care retirement community that has 300 or more independent living units; or

(b) 24 percent of the number of independent living units at a continuing care retirement community that has fewer than 300 independent living units.

(2) **Limited Direct Admission.** Notwithstanding the provisions of Health-General Article, §19-114(d)(2)(ii), Annotated Code of Maryland, a continuing care retirement community does not lose its exception from CON when the continuing care community admits an individual directly to a comprehensive care facility within the continuing care community under either of the following circumstances:

(a) Two individuals having a long-term significant relationship are admitted together to a continuing care retirement community and:

(i) The admission occurs after October 1, 1999;

(ii) The admission includes spouses, two relatives, or two individuals having a long-term significant relationship, as defined in Regulation .01B of this chapter and supported by documentary proof in existence for at least 1 year before application to the continuing care retirement community, admitted at the same time, under a joint contract, who are jointly responsible for expenses incurred under the joint contract; and

(iii) One of the individuals admitted under the joint contract will reside in an independent living unit or an assisted living unit; or

(b) An individual is admitted directly into a comprehensive care bed at a continuing care retirement community and:

(i) The individual must have executed a continuing care agreement and must have paid entrance fees that are at least equal to the lowest entrance fee charged by the continuing care retirement community for its independent or assisted living units;

(ii) The individual must pay the entrance fee by the same method, terms of payment, and time frame as a person who immediately assumes residence in an independent or assisted living unit at that continuing care retirement community; and

(iii) The individual admitted to the comprehensive care bed must have the potential for eventual transfer to an independent living unit or assisted living unit at that continuing care retirement community, as determined by the subscriber's personal physician, as defined in Regulation .01B of this chapter.

(3) Under §K(2)(b)(iii) of this regulation, an individual is deemed not to have potential for eventual transfer to an independent living unit or assisted living unit if the individual can qualify for hospice services under federal Medicare regulations or if the individual has an irreversible condition that would make it unlikely that the individual could transfer to an independent living unit or assisted living unit at the continuing care retirement community. Irreversible conditions include quadriplegia, ventilator dependence, and any end-stage condition.

(4) The total number of comprehensive care beds occupied by individuals who are directly admitted to comprehensive care beds pursuant to §K(2)(b) of this regulation may not exceed 20 percent of the total number of licensed and available comprehensive care beds at the continuing care retirement community.

(5) The admission of the individual directly into the comprehensive care bed pursuant to §K(2)(b) of this regulation may not cause the occupancy of the comprehensive care facility at the continuing care retirement community to exceed 95 percent of its current licensed capacity.

(6) The comprehensive care facility at the continuing care retirement community shall maintain an attestation by the individual's personal physician that the individual has the potential for eventual transfer to an independent living unit or an assisted living unit.

(7) The nursing home administrator of the comprehensive care facility at each continuing care retirement community who admits an individual directly to a comprehensive care bed pursuant to §K(2)(b) of this regulation shall maintain information, in a format specified by the Commission, about each admission in the format required by the Commission and encrypted by the continuing care retirement community so that the individual's identity will not be disclosed. The forms shall be maintained by the nursing home administrator, to be provided to Commission staff upon its request, and shall include:

(a) The number and utilization of licensed comprehensive care beds excluded from Certificate of Need requirements at the continuing care retirement community;

(b) The admission source of each individual admitted pursuant to §K(2)(b) of this regulation to a comprehensive care bed excluded from Certificate of Need requirements at the continuing care retirement community;

(c) For an individual admitted pursuant to §K(2)(b) of this regulation, the amount of and terms of payment for the entrance fee;

(d) The dates of admission and discharge of each individual admitted pursuant to §K(2)(b) of this regulation;

(e) The site to which an individual directly admitted pursuant to §K(2)(b) of this regulation is discharged; and

(f) Any other information as required by Commission staff.

.04 Exemption from Certificate of Need Review.

A. The Commission may exempt from the requirement of CON review and approval the following actions:

(1) Merger or consolidation of two or more hospitals or other health care facilities, if the facilities or an organization that operates the facilities give the Commission 45 days written notice of their intent to merge or consolidate;

(2) Relocation of an existing health care facility owned or controlled by a merged asset system, if:

(a) The relocation is to a site outside the primary service area of the health care facility to be relocated but within the primary service area of the merged asset system; and

(b) The relocation of the existing health care facility does not:

(i) Change the type or scope of health care services offered; and

(ii) Require a capital expenditure for its construction that exceeds the capital review threshold, adjusted for inflation, except as provided by Regulation .03J of this chapter;

(3) A change in the bed capacity of an existing health care facility pursuant to the consolidation or merger of two or more health care facilities, or conversion of a health care facility or part of a health care facility to a non-health-related use, except as provided in Regulation .03F of this chapter;

(4) A change in the type or scope of the health care services offered by a health care facility, if, at least 45 days before increasing or decreasing the volume of one or more health care services, the Commission finds that the proposed change is pursuant to the:

(a) Consolidation or merger of two or more health care facilities;

(b) Conversion of all or part of a health care facility to a non-health-related use; or

(c) Conversion of a hospital to a limited service hospital;

(5) A capital expenditure that exceeds the review threshold for capital expenditure made as part of a consolidation or merger of two or more health care facilities, or conversion of a health care facility or part of a health care facility to a non-health-related use; or

(6) The establishment of a freestanding medical facility through the conversion of an acute general hospital, as provided in §F of this regulation and in COMAR 10.24.19.04C.

B. Unless otherwise provided in this chapter for a specific type of health care facility, complete notice of intent to seek exemption from CON review shall be filed with the Commission at least 45 days before the intended action, and shall include:

(1) The name and location of each affected health care facility;

(2) A general description of the proposed project including, in the case of mergers and consolidations, any proposed:

(a) Conversion, expansion, relocation, or reduction of one or more health care services;

(b) Renovation of existing facilities;

(c) New construction;

(d) Relocation or reconfiguration of existing medical services; or

(e) Change in bed capacity at each affected facility;

(3) The scheduled date of the project's completion;

(4) Identification of each outstanding public obligation;

(5) Information demonstrating that the project:

(a) Is not inconsistent with the State Health Plan;

(b) Will result in the delivery of more efficient and effective delivery of health care services; and

(c) Is in the public interest; and

(6) Any other information, analyses, or other requirements established in State Health Plan regulation for requests seeking exemption from CON review.

C. Notice by the Commission to the Public, Elected Officials, and Other State Agencies.

(1) Within 5 days after it receives a complete Notice of Intent from a health care facility seeking exemption from CON review, the Commission shall publish notice of its receipt:

(a) In at least one newspaper of general circulation in the affected area;

(b) In the next available issue of the Maryland Register; and

(c) On the Commission's website.

(2) The Commission shall mail the same notice to elected public officials in whose district or jurisdiction the exemption from CON review is proposed.

(3) The Commission shall solicit comment from the affected public, in evaluating whether the action or project proposed for exemption from CON review is in the public interest.

D. Public Informational Hearing.

(1) An acute general hospital shall hold a public informational hearing in the jurisdiction where it is located within 30 days after it has filed with the Commission notice of its intent to:

(a) Close;

(b) Partially close, if the hospital is located in a jurisdiction with fewer than three acute general hospitals; or

(c) Convert to a limited service hospital or freestanding medical facility.

(2) Before holding the public informational hearing, the hospital shall consult with the Commission, to ensure that:

(a) Within 5 days of notifying the Commission of its intent to close, partially close, or convert, the hospital has provided public notice of the proposed closure or conversion and of the time and location of the required public informational hearing and how the public can electronically obtain additional information, including publication in at least one newspaper of general circulation in the affected area; and

(b) The public hearing will address the information required by §D(3) of this regulation.

(3) Requirements for a Public Informational Hearing.

(a) The acute general hospital proposing to close, partially close, or convert to a limited service hospital or freestanding medical facility shall hold a public informational hearing at the hospital or if that is not feasible at a public meeting area near the hospital.

(b) The hospital shall post a notice of the public informational hearing in public areas of its facility and on the landing page of its website.

(c) The hospital shall identify to the public the names of the senior management and Board of Directors attending the meeting.

(d) The hospital shall present at least the following information at the public informational hearing:

(i) The reasons for the closure, partial closure, or conversion;

(ii) The plan for transitioning acute care services previously provided by the hospital to residents of the hospital service area;

(iii) The plan for addressing the health care needs of the residents of the hospital service area;

(iv) The plan for retraining and placing displaced employees;

(v) The plan for the hospital's physical plant and site; and

(vi) The proposed timeline for the closure, partial closure, or conversion to a freestanding medical facility.

(e) The public informational hearing shall be recorded.

(f) Within 10 business days after the public informational hearing, the hospital shall make available on its website a recording of the public informational meeting and provide a written summary of the hearing, which shall also be provided to:

(i) The Governor;

(ii) The Secretary;

(iii) The governing body of the jurisdiction in which the hospital is located;

(iv) The local health department and the local board of health or similar body for the jurisdiction in which the hospital is located;

(v) The Commission; and

(vi) Subject to State Government Article, §2-1257, Annotated Code of Maryland, the Senate Finance Committee, the House Health and Government Operations Committee, and the members of the General Assembly who represent the district in which the hospital is located.

E. Commission Action.

(1) Unless otherwise provided in this chapter for a specific type of health care facility, the Commission shall issue an exemption from CON review to the health care facility or the merged asset system seeking this determination within 45 days after it receives the notice of intent required by §B of this regulation, if:

(a) The facility or system has provided the information required by the notice of intent, and has held a public informational hearing if required by §D of this regulation; and

(b) The Commission, in its sole discretion, finds that the action proposed:

(i) Is not inconsistent with the State Health Plan or an institution-specific plan developed by the Commission under Health-General Article, §19-119, Annotated Code of Maryland;

(ii) Will result in more efficient and effective delivery of health care services; and

(iii) Is in the public interest.

(2) For any project that the Commission may exempt from CON review under §A of this regulation, for which a final Commission decision has not been issued within 45 days after it receives a complete notice of intent as required by §B of this regulation, Commission staff shall provide a status report at the next Commission meeting and any subsequent Commission meeting stating the reasons for the delay and the expected time frame for issuing its final decision.

(3) CON review is not required and the exemption request shall be deemed approved for any project which the Commission may exempt from CON review under §A of this regulation if final action by the Commission does not occur within 90 days after the facility or system has provided complete notice of intent as required by §B of this regulation and has held a public hearing if required by §D of this regulation.

(4) Upon request, Commission staff shall provide written confirmation that an exemption request has been deemed approved in accordance with §E(3) of this regulation.

F. Freestanding Medical Facility.

(1) In accordance with COMAR 10.24.19.04C and this regulation, the Commission may exempt from CON review the establishment of a freestanding medical facility as a result of a conversion from a licensed acute general hospital.

(2) At least 60 days before the conversion, written notice of intent to convert the licensed general hospital to a freestanding medical facility shall be filed with the Commission in accordance with COMAR 10.24.19.04C.

(3) Provided that all the requirements of this regulation and COMAR 10.24.19.04C are met, the Commission shall grant the exemption if it finds, in its sole discretion, that the conversion:

(a) Is consistent with the State Health Plan;

(b) Will result in the delivery of more efficient and effective health care services;

(c) Will maintain adequate and appropriate delivery of emergency care within the statewide emergency medical services system as determined by the State Emergency Medical Services Board; and

(d) Is in the public interest.

(4) The Commission may approve, approve with conditions, or deny the requested exemption.

(5) Failure to maintain compliance with conditions on an exemption or with the time frame for completion of the conversion may result in withdrawal of the exemption issued by the Commission in accordance with Regulation .12 of this chapter. An exemption holder may request approval of a reasonable modification to the conversion timeline in accordance with Regulation .12A(4) of this chapter.

.05 Ambulatory Surgery Centers: Determination of Coverage and Data Reporting.

A. Determination of Coverage.

(1) A CON is not required for an ambulatory surgery center.

(2) A person shall obtain a determination of coverage from the Commission before:

(a) Establishing a new ambulatory surgery center;

(b) Adding a new operating room or any other rooms in which procedures are performed to an existing ambulatory surgery center; or

(c) Making any change in the information provided for initial determination of coverage.

(3) *Change in Location.* A determination of coverage for an ambulatory surgery center is issued only for the exact address specified in the determination. A change in address or in the layout of the center before it is built, developed, or established requires a new determination of coverage.

(4) *Change in Ownership.* A determination of coverage regarding an ambulatory surgery center is issued only for the person specified in the determination. If the principal owner or a majority of other owners of an existing ambulatory surgery center is expected to change, a request for a new determination of coverage shall be filed and include:

(a) A complete list of the existing owners and the post-transaction owners; and

(b) An attestation by the ambulatory surgery center that, subsequent to the issuance of the original determination of coverage, no changes have been made and that, as a result of the planned change in ownership, no changes will be made:

(i) To the physical plant or layout of the ambulatory surgery center; or

(ii) In the surgical specialties provided.

(5) *Expiration of Determination of Coverage.* A determination of coverage for a new ambulatory surgery center or for new capacity at an existing ASC-P or ASC-1 may be issued and is effective for 2 years from the date of the determination. If that capacity is not built or established within 2 years, the determination of coverage is void.

(6) *Notice.* Before seeking to establish a new operating room or any other rooms in which procedures are performed, or to make any change in the information provided for initial determination of coverage, a person shall provide notice to the Commission at least 45 days in advance that includes all information required by COMAR 10.24.11.04A.

(7) For purposes of this regulation, all ambulatory surgery centers that are located in the same building and that share any common ownership or control shall be considered one entity, and their operating rooms shall be considered together for purposes of determining

coverage under Regulation .02 of this chapter.

(8) Except as provided in this regulation or permitted in the Certificate of Need or exemption criteria in the State Health Plan under COMAR 10.24.11, an ambulatory surgical facility or other entity primarily providing ambulatory surgical services may not relocate beyond an adjacent site or expand its number of operating rooms without obtaining a Certificate of Need.

(9) A CON is not required for ambulatory surgical services provided as part of an office of one or more individuals licensed to practice dentistry under Health-Occupations Article, Title 4, Annotated Code of Maryland, for the purpose of practicing dentistry, if the ambulatory surgical facility is not used in a medical practice other than dentistry.

B. Data Reporting and Annual Survey of Ambulatory Surgical Centers, Facilities, and Providers.

(1) To provide information for the Commission's planning purposes and to determine changes in circumstances and operation that may affect coverage by CON requirements, each existing ambulatory surgery center, facility, office, and provider that primarily provides ambulatory surgical services shall annually provide to the Commission the information required by COMAR 10.24.04.

(2) A person providing ambulatory surgical services who is required to obtain a license under Health-General Article, §19-3B-02(a), Annotated Code of Maryland, shall annually provide the required information on a form provided by the Commission.

.06 Access to Information and Facilities.

To the extent permitted by law, an applicant shall provide access to general information, records, plans and specifications, meetings, sites, and facilities to Commission staff upon proper notice and as is reasonable and necessary in the performance of the Commission's responsibilities. The Commission may require other health care providers to provide similar information.

.07 Preapplication Procedures.

A. Letter of Intent.

(1) A prospective applicant for a Certificate of Need shall submit to the Center for Health Care Facilities Planning and Development a brief letter of intent, with a copy to each local health department in the health planning region. The Center for Health Care Facilities Planning and Development shall formally log all letters of intent upon receipt.

(2) A prospective applicant identified in a letter of intent may be the person or persons who will be the licensee. If the legal entity that will be the licensee has not yet been formed or finalized at the time of filing a letter of intent:

(a) A prospective applicant shall identify the intended ownership and control of the licensee with the same level of specificity as required in §A(3) of this regulation; and

(b) The legal entity that will be the licensee shall be formed at the time of filing an application for a CON.

(3) The letter of intent shall include the following information:

(a) The identity of each person on whose behalf the letter of intent is filed, including:

(i) The name and address of each such person; and

(ii) In the case of a letter of intent filed on behalf of a person that is not a natural person, the date the entity was formed, the business address of the entity, and the identity and percentage of ownership of all persons having an ownership interest of 5 percent or more in the entity;

(b) A description of the proposed project;

(c) The quantity and types of beds or health services involved; and

(d) The specific location and each jurisdiction in which services will be provided, according to the relevant planning region in the State Health Plan for that facility or service.

(4) A letter of intent shall be submitted in accordance with the published review schedule established by the Commission in accordance with Regulation .08D of this chapter, but if no applicable review schedule has been published, a letter of intent may be submitted at any time.

(5) Notice of the receipt of a letter of intent for a project not subject to a published review schedule shall be placed in the Maryland Register, and a 30-day period initiated for the submission of any other letters of intent for comparable projects to be included in a comparative review.

(6) Upon docketing of an application, the letter of intent for that project is no longer valid for purposes of comparative review.

(7) If a letter of intent is submitted for a proposed health care project which might be comparable to a project application which has been submitted but not yet docketed, the projects shall be given a comparative review.

(8) Notwithstanding any other regulation in this chapter, no letter of intent or application shall initiate a comparative review with an earlier filed letter of intent or application if the earlier filed letter of intent predates the later filed letter of intent by a period of more than 60 days, unless the Executive Director finds that the applicant in the earlier filed matter has unreasonably delayed in the advancement of its application through staff's completeness review, and that good cause exists to review the projects in comparative review.

(9) If a person submits a letter of intent for a proposed health care project that might be comparable to an application which has already been docketed, a comparative review may not be conducted.

(10) If an application for a CON is not filed in accordance with Regulation .08A(1) of this chapter, the letter of intent is void.

(11) Letters of intent are subject to public inspection during normal business hours.

B. Preapplication Conference. After the filing of a letter of intent, an applicant may request that the Commission staff arrange a preapplication conference to discuss:

(1) Commission procedures for reviewing the application or applications;

(2) Information and data to be included in the application or applications;

(3) The State Health Plan requirements that may affect the project; and

(4) Other matters relevant to the filing and processing of the application or applications.

C. The discussions in §B of this regulation are informal, and statements at the meetings are not admissible as evidence at a Commission proceeding.

.08 Procedure for Review of CON Applications.

A. Review Schedule.

(1) An application shall be submitted in accordance with the published review schedule established by the Commission in accordance with §D(1) of this regulation, but if no applicable review schedule has been published, an application may be submitted at any time 60 days after the filing of the letter of intent but no more than 180 days after the filing of the letter of intent, unless a shorter period has been approved by the Executive Director.

(2) In a case when need for additional service capacity is projected, the Commission may not docket an application until it has made a final decision on each previously docketed application for a comparable project, unless the most recently published need projections or State Health Plan would support the approval of both projects.

B. Submission of Application.

(1) An application for a CON shall be submitted to the Commission's Center for Health Care Facilities Planning and Development in the form and manner prescribed by the Commission.

(2) The application, and all information supplementing the application, shall be signed by at least one principal of the applicant, who shall sign a statement as follows: "I solemnly affirm under penalties of perjury that the contents of the application (or the supplementary information) are true to the best of my knowledge, information, and belief."

C. Completeness Review and Docketing.

(1) Prior to docketing an application for review, Commission staff shall review the application for completeness:

(a) Within 20 business days for projects involving the establishment of a health care facility, the relocation of a health care facility or the introduction by a hospital of cardiac surgery or organ transplantation; and

(b) Within 15 business days for all other projects.

(2) Commission staff may schedule a conference with the applicant within the completeness review period prescribed in §C(1) of this regulation.

(3) Commission staff shall determine whether the application contains all the information requested in the application. If staff determines that the application is not complete, the staff shall make one written request for additional information that specifies the information requested and the 15-business-day deadline for the applicant to supply the requested information. For good cause, staff may make one additional request for information, to which the applicant shall have 10 business days to respond. Additional information may be requested by staff beyond that required to make the application complete, which shall also be subject to a time limit for the applicant to supply the requested information.

(4) If Commission staff determines, based on staff's review of the application and any additional information provided in response to a staff request for additional information, that the application is complete and conforms with the applicable docketing rules in the State Health Plan, the staff shall docket the application for review and publish notice of the docketing on the next available publication date of the Maryland Register.

(5) If an applicant fails to supply the required information within the specified time limit, staff may dismiss the application. Staff may, at its discretion, extend the response time for an applicant in a noncomparative review, or, with the consent of all applicants, for an applicant in a comparative review, up to an additional 10 business days, or more upon a demonstration of good cause for the additional extension.

(6) Commission staff or a reviewer may:

(a) Request information from the applicant supplementing an otherwise complete application at any time during the review of an application; and

(b) Set reasonable time limits for the applicant to supply the requested information.

D. Notice to the Public.

(1) At least once each year, Commission staff shall publish in the Maryland Register a schedule for conducting reviews of applications for designated services by health planning region, as follows:

(a) The schedule shall include the status of applicable need forecasts found in the State Health Plan or published elsewhere as required by the State Health Plan for conducting the reviews of the designated services by health planning region;

(b) The schedule shall establish application submission dates not sooner than 3 months following the publication of the proposed schedule; and

(c) The schedule shall identify scheduled reviews by health planning region and shall state the dates for the receipt of letters of intent and the submission of applications.

(2) Within 10 business days of receiving a complete application, Commission staff shall request that the Maryland Register publish notice to the public of the docketing of an application. The Commission shall also publish notice in a newspaper of general circulation in the area of the proposed project. Notices shall comply with State Government Article, §10-207, Annotated Code of Maryland, and shall include:

(a) A citation to the Commission's enabling act and this chapter, the name of the applicant, the matter or docket number, and a general description of the project containing the information required in letters of intent;

(b) An explanation that a person who meets the definition of "interested party" in Regulation .01B of this chapter may become an interested party to the review of this application by submitting written comments on the application within 30 days of its docketing; and

(c) A statement that a person may request in writing that the Commission advise them of further notices of the proceedings on the application, and that any further notice of proceedings will only be sent to persons who have submitted a written request.

(3) If an evidentiary hearing is held in accordance with Regulation .11 of this chapter, the Commission shall provide notice to each person who has requested to be apprised of further proceedings on the application.

E. Modifications to Letters of Intent and Applications.

(1) An applicant shall give written notice to the Center for Health Care Facilities Planning and Development of any modifications to the applicant's letter of intent before submitting an application.

(2) An application may be modified until the 45th day after docketing. After the 45th day of docketing, an application may only be modified as a result of a project status conference held pursuant to Regulation .09A(2) of this chapter or upon a showing of good cause.

(3) If an application is modified:

(a) The Commission shall provide:

(i) Notice of the changes by a dated posting on the Commission's website and in a newspaper of general circulation in the affected jurisdiction; and

(ii) A 10-business-day period following the website posting for comments on the changes; and

(b) Each applicant in the review will be deemed to have waived the right to a final decision by the Commission within the statutorily prescribed time.

(4) The following modifications to a proposed project require a new Certificate of Need application:

(a) Changes in the fundamental nature of a proposed facility or the medical services to be provided;

(b) Increases in the total bed capacity of a proposed facility; or

(c) A change in the site of a proposed facility.

F. Comments by a Person Seeking Interested Party Status or by a Participating Entity and Applicant's Response.

(1) Written Comments by a Person Seeking Interested Party Status.

(a) A person seeking interested party status shall file written comments on an application within 30 days of docketing.

(b) The comments shall include information sufficient to establish interested party status, as defined in Regulation .01B of this chapter.

(c) If a person seeking interested party status is opposing an application, the comments shall state with particularity the State Health Plan standards or the review criteria in §G of this regulation that the person seeking interested party status believes have not been met by the applicant and the reasons why the applicant does not meet those standards or criteria.

(d) Factual assertions made in comments by a person seeking interested party status that are not included in the record shall be accompanied by appropriate documentation and sworn affidavit.

(e) In a review with only one applicant, the comments shall be 25 pages or fewer, double-spaced, excluding attachments.

(f) In a comparative review, the comments shall be 35 pages or fewer, double-spaced, excluding attachments.

(2) Written Comments by a Person Seeking Participating Entity Status.

(a) A person seeking participating entity status shall file written comments on an application within 30 days of docketing that:

(i) Include information that the participating entity wishes the Commission to consider; and

(ii) State with particularity the State Health Plan standards or review criteria in §G of this regulation that it believes have not been met by the applicant, and the reasons why the applicant does not meet those standards or criteria.

(b) A person granted participating entity status shall be copied on Commission documents in the review of the application.

(c) A person granted participating entity status is not an interested party and has no right to judicial review of a final Commission decision.

(3) Response to Comments.

(a) An applicant is permitted to make one written filing responding to all written comments on its application within 15 days of receipt of those comments.

(b) The applicant's response may not be more than 25 pages, double-spaced, excluding attachments.

(c) In a comparative review, the applicant's response may not be more than 35 pages, double-spaced, excluding attachments.

(d) Factual assertions in an applicant's response that are not included in the record shall be accompanied by appropriate documentation and sworn affidavit.

G. Criteria for Review of Application.

(1) In a Certificate of Need review, the applicant carries the burden of proving by a preponderance of the evidence that the project meets the applicable criteria for review.

(2) In reviewing an application for a CON, the Commission shall consider the applicant's submissions, the comments, if any, of interested parties, participating entities, the local health department, and information gathered during the Commission's review of the application, to which each applicant and interested party has been afforded the opportunity to respond. In a comparative review the Commission shall award a CON to the applicant, or applicants, that best meet the review criteria in §G(3) of this regulation.

(3) Criteria for Review of an Application for Certificate of Need.

(a) State Health Plan. An application for a Certificate of Need shall be evaluated according to all relevant State Health Plan standards.

(b) Need. The Commission shall consider the applicable need analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the applicant has demonstrated a need for the proposed project.

(c) Alternatives to the Project. The Commission shall consider the alternative approaches to meeting the need identified for the project that were considered by the applicant in planning the project and the basis for the applicant's choice of the project among considered alternatives. In a comparative review of applications within the same review cycle, the Commission shall compare the costs and the likely effectiveness of alternative projects in meeting identified needs, improving the availability and accessibility of care, and improving the quality of care.

(d) Project Financial Feasibility and Facility or Program Viability. The Commission shall consider the availability of resources necessary to implement the project and the availability of revenue sources and demand for the proposed services adequate to ensure ongoing viability and sustainability of the facility to be established or modified or the service to be introduced or expanded.

(e) Compliance with Terms and Conditions of Previous Certificates of Need. An applicant shall demonstrate compliance with all terms and conditions of each previous CON granted to the applicant.

(f) Project Impact. The Commission shall consider the impact of the proposed project on the costs and charges of existing providers of the facilities and services included in the project and on access to those facilities and services in the service area of the project.

(g) Health Equity. The Commission shall consider how a proposed project will address health care disparities in availability, accessibility, and quality of care among different populations within the service area. The Commission shall consider how social determinants of health within the service area of the proposed project create disparities in the delivery of health care.

(h) Character and Competence. The Commission shall assess the character and competence of an applicant based upon experience and past performance, including any records of violation in operating a health care service or facility.

.09 Commission Decision and Action on CON Applications.

A. Proposed Decision.

(1) Preparation of Proposed Decision.

(a) In a comparative or contested review, or in a review in which an evidentiary hearing is held in accordance with Regulation .11 of this chapter, the Executive Director shall appoint a single Commissioner, who may be assisted by the staff of the Commission, to act as reviewer and prepare a proposed decision for consideration by the Commission.

(b) In all other reviews, Commission staff shall review the application and prepare a staff report and recommendation for consideration by the Commission.

(2) Project Status Conference.

(a) The reviewer or staff, as appropriate, may request that a project status conference be held before the issuance of a proposed decision or staff report, to apprise each applicant, interested party, and participating entity of those aspects of a proposed project that appear to be inconsistent with applicable standards and review criteria.

(b) Following the project status conference, the reviewer or staff will send each applicant, interested party, and participating entity a summary of the project status conference that includes dates, as needed, for additional filings.

(c) The applicant shall send to each interested party and participating entity a copy of proposed project changes made pursuant to the project status conference.

(d) Each interested party and participating entity in the review of an application shall have 7 days to file comments on the proposed changes made pursuant to the project status conference.

(3) Opportunity to Present Oral Argument. Each applicant and interested party in a contested or comparative review may request the opportunity to present oral argument to the reviewer before the reviewer prepares a proposed decision on the application for consideration by the full Commission, as follows:

(a) The request shall be made within the time period for an applicant's response to comments under Regulation .08F(1) of this chapter;

(b) The decision to grant oral argument is at the sole discretion of the reviewer;

(c) The reviewer may set reasonable time limits for oral argument; and

(d) The reviewer may, if there is a genuine dispute as to the credibility of a material witness on a matter of fact, require the witness to answer questions on that matter under oath during the oral argument portion of a CON review.

(4) A staff report and recommendation on a proposed project or a reviewer's proposed decision on a project shall state the staff's conclusion or the reviewer's finding as to whether:

(a) Each relevant State Health Plan standard or review criterion set forth in Regulation .08G of this chapter:

(i) Is met by the applicant;

(ii) Is not applicable to the project; or

(iii) Is applicable to the project and is not met by the applicant;

(b) In a comparative review, one or more of the projects is preferred under a State Health Plan standard or criterion either as a result of consideration of a preference standard or because one or more of the projects was determined to be superior based on the reviewer's consideration of the applicable criteria; and

(c) To recommend that one or more of the projects be granted a CON.

B. Exceptions.

(1) Pursuant to State Government Article, §10-216, Annotated Code of Maryland, each applicant and interested party who has submitted comments under Regulation .08F(1) of this chapter may submit written exceptions to a staff report and recommendation or a proposed decision and make oral argument to the Commission.

(2) Schedule.

(a) A proposed decision in a contested or comparative review shall be issued at least 30 days before the Commission meeting at which the proposed decision and order will be considered.

(b) Upon issuance of a staff report or proposed decision, Commission staff shall issue a notice specifying the schedule for the submission of exceptions and any response, the date on which the Commission shall hear oral argument, and rules for conduct of the hearing.

(c) Unless otherwise agreed by each applicant and interested party, the schedule issued by Commission staff in a contested or comparative review shall specify that exceptions shall be filed at least 10 days after the issuance of a proposed decision and any response to the exceptions filed at least 7 days after the filing of exceptions. The Commission staff may shorten these periods by agreement of the parties, or extend any deadlines set for good cause shown.

(3) Exceptions Requirements.

(a) Exceptions shall specifically identify each finding and conclusion to which exception is taken, citing those portions of the record on which each exception is based.

(b) Exceptions shall be limited to 25 pages, double-spaced, excluding attachments.

(c) Responses to exceptions shall be limited to 15 pages, double-spaced, excluding attachments.

(4) Oral arguments before the full Commission concerning the proposed decision are limited to 10 minutes per applicant and 10 minutes per interested party, unless extended by the Chair of the Commission. An applicant may reserve time for rebuttal.

*C. Participation By Participating Entity In Certain Reviews After Issuance of a Staff Report or Reviewer's Proposed Decision.**(1) Request by Participating Entity to Address the Commission.*

(a) After the issuance of a staff report or a reviewer's proposed decision, a participating entity may request the opportunity to address the Commission before Commission action on the application by submitting a written request at least 7 days before the scheduled Commission meeting that will consider an application, specifying the points that it wants to make.

(b) The Chair of the Commission, after consultation with the Executive Director, may permit a participating entity, or combination of participating entities, to make an oral presentation to the Commission on matters it addressed in written comments on the application.

(c) At least 5 days before the scheduled Commission meeting that will consider an application, the Executive Director shall advise each applicant, interested party, and participating entity in a review whether the Chair will permit a participating entity or combination of participating entities to make an oral presentation to the Commission, and shall specify the format of the presentation.

(2) An applicant may address the Commission in any review in which a participating entity is granted permission to address the Commission before action on an application.

D. Final Decision.

(1) The Commission's final decision on a project shall contain findings of fact and conclusions of law and:

- (a) Approve the application;
- (b) Approve the application with conditions; or
- (c) Deny the application.

(2) The decision of the Commission shall be by a majority of the quorum present and voting.

E. Action on the Application.

(1) The Commission shall act on an application for a CON not later than 150 days after the application has been docketed. If no evidentiary hearing is held, the Commission shall act on an application within 90 days after the docketing of the application. Staff shall report to the Commission the status of all projects where a staff report is not issued for Commission action within 90 days.

(2) With the exception of CON applications to establish a health care facility, relocate a health care facility, or establish cardiac surgery services or organ transplantation services at an existing acute general hospital, a CON application filed after October 1, 2019 shall be deemed approved if the application is uncontested and final action by the Commission does not occur within 120 days after the application is docketed.

(3) On motion by an applicant or an interested party, a review of a CON application may be stayed for a period not to exceed 6 months if the reviewer, or if a reviewer is not appointed, the Executive Director, determines that there is good cause for a stay.

(4) The Commission shall notify the applicant, interested parties, participating entities, and the local health department of the Commission's final decision.

(5) The Commission may not render a final decision until:

- (a) A staff report and recommendation or a reviewer's proposed decision has been provided to each party; and
- (b) Each applicant and interested party has been given an opportunity to file exceptions and present oral argument before the Commission.

F. Judicial Review.

(1) The Commission's final decision is subject to judicial review under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(2) In order to seek judicial review, a party must be an aggrieved party.

(3) For purposes of judicial review, the record of the proceeding shall include:

- (a) The application;
- (b) Requests to an applicant for additional information from Commission staff, the reviewer, the Commission, and responses to the requests;
- (c) Comments received from each interested party and responses from each applicant;
- (d) Reports or recommendations from staff;
- (e) Motions and responsive filings;
- (f) The prehearing conference report, if any;
- (g) Prefiled testimony, if any;
- (h) A recording or transcript of any hearing;
- (i) The reviewer's proposed decision, all exceptions, and responses to exceptions; and
- (j) The Commission's final decision.

(4) A decision of the Commission is a final decision for purposes of judicial review.

(5) A request for reconsideration in accordance with Regulation .19 of this chapter will stay the final decision of the Commission for purposes of judicial review until the Commission decides the request for reconsideration.

.10 Miscellaneous Rules and Procedures.

A. Computation of Time.

(1) In computing a period of time prescribed by these regulations, by order of the Commission, or by an applicable statute, the day of the action or default initiating the designated period of time is not included. The last day of the period so computed is to be included unless it is a day on which the office of the Commission is closed, in which event the period extends until the next day on which the office of the Commission is open. Unless otherwise noted, all time periods shall be computed in calendar days.

(2) At the discretion of the reviewer, the Executive Director, or the Executive Director's designee, and upon a showing of good cause by the submitting party, a period of time to submit a document or perform any act permitted or prescribed by these regulations may be extended for a reasonable period of time.

B. Filing of Documents. In all matters before the full Commission, filings may not be made directly to individual commissioners except at the direction of the reviewer or the Executive Director.

C. Motion Practice.

(1) A motion shall be made in writing, except when made at a hearing or prehearing conference in accordance with Regulation .11 of this chapter, and shall state concisely the action the movant desires the Commission to take, and supporting grounds and authority.

(2) A motion shall be filed within 20 days of the determination to which the motion responds.

(3) The following actions shall be taken by motion:

- (a) A demand for an action which the movant desires the Commission, the reviewer, or the staff of the Commission to take;
- (b) A request for reconsideration, under Regulation .19 of this chapter;
- (c) An objection to the introduction of a statement or other evidence by a party during an evidentiary hearing held under Regulation

.11 of this chapter;

- (d) A challenge to a reviewer or other member of the Commission;

(e) An action that might be initiated properly or undertaken by a party to a review, and that is not otherwise provided for in this chapter; and

(f) Any other question that is justiciable.

(4) A motion need not be verified unless it is based on facts not apparent from the record or documents filed in the proceeding.

(5) An applicant or interested party to the review may file one written answer to a motion, in the same format required of motions, within 10 days of the filing of the motion.

(6) Except as otherwise provided in these regulations, the reviewer or, in a matter in which no reviewer has been appointed, the Executive Director shall rule on a motion made prior to the issuance of a proposed decision or staff recommendation. Except as otherwise provided in these regulations, the Chair shall rule on all other motions.

(7) The person presiding over the motion may hear oral argument on the motion at the request of a party.

D. Summary Decision.

(1) At any time after an application is docketed, staff may file a motion for summary decision to deny the application.

(2) The motion shall identify the grounds for the motion, which is not required to address every applicable State Health Plan standard. The applicant may respond to the motion in writing, within 15 days of receipt of the motion.

(3) The reviewer, or, in a matter in which no reviewer has been appointed, a commissioner appointed as motions officer by the Executive Director, may hear oral argument on the motion at the request of a party and shall issue a proposed ruling which shall be subject to review by the full Commission.

(4) A quorum of the full Commission shall make a final ruling on the motion for summary decision.

E. Ex Parte Contacts. After the docketing of an application and until the Commission renders its final decision under this regulation, the ex parte provisions of the State Government Article, Title 10, Annotated Code of Maryland, apply.

F. Local Health Department Review and Comment. The Commission shall seek information and comment from each local health department in the health planning region for the proposed project, and shall consider any response from each health department in making a final decision on an application.

G. Required Approvals.

(1) Except in emergency circumstances posing a threat to public health, all decisions of the Commission on an application for a Certificate of Need shall be consistent with applicable State Health Plan standards and criteria established by the Commission.

(2) Unless the Commission finds that the facility or service for which a proposed expenditure is to be made is not needed or is not consistent with the State Health Plan, the Commission shall approve an application for a Certificate of Need to the extent that the expenditure will be made to eliminate or prevent an imminent safety hazard, as defined by federal, State, or local fire, building, or life safety codes or regulations, to comply with State licensing standards, or to comply with accreditation standards for reimbursement under Title XVIII of the Social Security Act or under the State Medical Assistance Program approved under Title XIX of the Social Security Act.

H. Notice of Final Action on a Certificate of Need Application. The Commission shall provide a copy of a CON decision to State or local licensing agencies, the Maryland Medical Assistance Program, and the Health Services Cost Review Commission.

I. Participation of Staff. A reviewer may seek the assistance of any member of the Commission staff in preparing a proposed decision.

J. Transferability. A Certificate of Need or other Commission approval is not transferable.

K. Consent Agenda.

(1) The Commission may take action on the following categories of items by use of a consent agenda at a public meeting of the Commission:

(a) Adoption of final regulations previously adopted by the Commission as proposed permanent regulations that:

(i) Do not result in public comments after publication in the Maryland Register; and

(ii) Contain no wording changes.

(b) A change in an approved project that requires Commission approval pursuant to Regulation .17 of this chapter and is recommended for approval by the Executive Director with the exception of:

(i) An increase in the capital cost of a project that exceeds the approved capital cost inflated by the cost index specified in Regulation .17 of this chapter that also includes a change in the financing mechanism of the project; or

(ii) A change in the financing mechanism of the project.

(c) Confirmation of an emergency CON issued by the Executive Director in accordance with Regulation .20 of this chapter.

(d) Other categories of actions that a majority of the fully authorized membership of the Commission votes to include on the consent docket.

(2) Consent agenda items shall be disseminated to the Commissioners prior to the meeting along with copies of any related materials. At the beginning of the meeting, the Chair of the Commission will present the consent agenda to the Commissioners and ask whether anyone wishes to remove an item from the consent agenda to the main agenda or the next scheduled meeting. Items may be removed from the consent agenda on the request of any one Commissioner. Items not removed may be adopted by general consent without debate. Removed items may be taken up either immediately after the consent agenda, placed later on the agenda, or moved to the meeting that follows at the discretion of the Chair.

.11 Evidentiary Hearings.

A. Request for Evidentiary Hearing.

(1) Except as otherwise provided in these regulations, a request for an evidentiary hearing shall be made within 45 days of the docketing of an application or within 30 days after the modification of an application in a review.

(2) At the request of an applicant or interested party, the Commission may hold an evidentiary hearing in the review of a CON application for any health care facility other than an ambulatory surgical facility if, in the judgment of the reviewer, an evidentiary hearing is appropriate due to the magnitude of the impact that the proposed project may have on the health care delivery system and the project, if approved, would result in one of the following:

(a) A substantial negative impact on the costs and charges for the type of the facility, services, or both included in the project;

(b) A substantial negative impact on access to those facilities and services by the population in the proposed project's expected service area;

(c) A significant decrease in the availability and overall quality of health care services in the affected area in a manner not consistent with policies or need projections set forth in the State Health Plan, such as by causing a loss of reasonable access to an essential medical service by a substantial number of patients; or

(d) Any impact that the reviewer concludes may be sufficiently serious to merit an evidentiary hearing.

B. General.

(1) Reviewer as Presiding Officer.

(a) If an evidentiary hearing is held in accordance with this chapter, the reviewer shall:

- (i) Conduct a full, fair, and impartial hearing;
- (ii) Take action to avoid unnecessary delay in the disposition of the proceedings; and
- (iii) Maintain order.

(b) A reviewer has the power to regulate the course of an evidentiary hearing and the conduct of the parties and authorized representatives, including the power to:

- (i) Administer oaths and affirmations;
- (ii) Rule upon offers of proof and receive relevant and material evidence;
- (iii) Consider and rule upon motions in accordance with this chapter;
- (iv) Examine witnesses and call witnesses as necessary to ensure a full and complete record;
- (v) Limit unduly repetitious testimony and reasonably limit the time for presentations;
- (vi) Grant a continuance or postponement;
- (vii) Modify or waive, reasonably and for good cause, any time periods established by this chapter;
- (viii) Request that parties submit legal memoranda, proposed findings of fact, and proposed conclusions of law;
- (ix) Make proposed decisions and take any other appropriate action authorized by law;
- (x) Issue orders as are necessary to secure procedural simplicity and administrative fairness and to eliminate unjustifiable expense and delay; and

(xi) Conduct the hearing in a manner suited to ascertain the facts and safeguard the rights of the parties to the hearing.

(c) The reviewer may impose appropriate sanctions for failure to abide by this chapter or any lawful order of the reviewer.

(2) Conduct of Evidentiary Hearings.

(a) An evidentiary hearing need not be conducted according to technical rules of evidence, but shall be conducted in accordance with the State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and these regulations.

(b) Reliable hearsay is admissible.

(c) Rules of privileges are effective to the extent they would be effective in a judicial proceeding in Maryland.

(d) Nonexpert opinion testimony may be considered.

(e) Qualification as an expert lies within the discretion of the reviewer. The qualification of an expert need not be based on academic degrees. Reasonably extensive practical experience with the subject may be sufficient for an expert qualification.

(f) Reliable and probative documents previously filed with or compiled by the Commission or its staff or consultants that are relevant to issues being considered by the Commission may be incorporated by reference into the record of a proceeding by the Commission or, by leave of the reviewer, by a party to the proceeding, upon notice to the parties and an opportunity to object.

(g) The reviewer may take administrative notice of all judicially cognizable facts to the same extent as courts of this State, either on the reviewer's own motion or at the request of a party. The reviewer may also take official notice, without meeting formal evidentiary rules, of general technical or scientific facts within the specialized knowledge of a member of the Commission. A party to the hearing is entitled, on timely request, to an opportunity to show that the Commission should not take administrative or official notice of specific facts and matters, or that the fact or matter to be officially noticed is inapplicable to the proceeding or is incorrect or misunderstood by the Commission.

(3) A party to the hearing may be represented by counsel.

(4) The prehearing conference and the hearing shall be recorded. If an applicant or other person desires a transcript, that person shall pay all costs to transcribe the recording.

(5) Documents filed in the proceeding shall be served on the reviewer, the assistant attorneys general of the Commission, and each interested party, and shall include a certificate of service.

C. Prehearing Procedures.

(1) The reviewer shall hold a prehearing conference, and may hold settlement conferences, before an evidentiary hearing.

(2) The reviewer shall notify each applicant and interested party of the prehearing conference in writing. The notification shall:

- (a) Include the date, time, and place of the prehearing conference or conferences;
- (b) Summarize the rules of procedure governing the evidentiary hearing; and
- (c) State the dates, if known, for the submission of prefiled testimony and the date, time, and place of the evidentiary hearing.

(3) The principal purpose of the prehearing conference is to expedite the evidentiary hearing. To this end the reviewer may, among other things:

(a) Instruct the parties to:

- (i) Formulate and submit a list of genuine contested issues to be decided at the hearing;
- (ii) Identify each potential witness, the subject matter of each witness's testimony, and documents to be introduced; and
- (iii) Raise and address issues that can be decided before the hearing;

(b) Encourage stipulations as to facts, law, and other matters;

(c) Schedule dates for the submission of prefiled testimony, further prehearings, the hearing, and submission of briefs and documents;

and

(d) Rule on any pending motions.

(4) A written summary of the prehearing conference shall be made a part of the record of the proceeding.

(5) The reviewer may record the prehearing conference or have a stenographer present.

(6) A request for the postponement of a hearing shall be made at a reasonable time before the hearing and may be granted only for good cause shown, at the discretion of the reviewer.

D. List of Genuine Issues.

(1) The reviewer shall establish a list of genuine issues of material fact for the evidentiary hearing.

(2) An evidentiary hearing shall be held only on those genuine factual issues or issues on which the reviewer determines that testimony would be useful in rendering a decision.

E. Written Direct Testimony.

(1) Direct testimony shall be in writing and may not be delivered orally.

(2) A party who wishes to present testimony at the evidentiary hearing shall file written testimony before the hearing in accordance with the schedule set by the reviewer.

(3) The written direct testimony shall set forth the conclusions of the person submitting it and all arguments and facts supporting these conclusions.

(4) Written direct testimony shall be verified either under oath at the hearing or by including the statement specified in Regulation .08B(2) of this chapter.

(5) Upon notice with an opportunity to object, the reviewer shall separate irrelevant material from the remainder of the record and keep that material apart. Parts of the body of the written direct testimony judged irrelevant by the reviewer shall be so marked and may not be considered by the Commission in its deliberations.

(6) Persons submitting written testimony shall make themselves available for oral cross-examination. Submitted application materials are also subject to cross-examination. Letters submitted into the record which are not considered written testimony are not subject to cross-examination.

F. Cross-Examination.

(1) Cross-examination of each witness shall be live and under oath.

(2) The reviewer and each non-proponent applicant and interested party may conduct reasonable cross-examination of a witness who gave direct or rebuttal testimony.

(3) The reviewer may set reasonable time limits on the cross-examination of witnesses.

G. Rebuttal Testimony.

(1) Rebuttal testimony is permitted on any issue specified by the reviewer.

(2) Rebuttal testimony, whether specified by the reviewer to be written or oral, is subject to live cross-examination.

H. Post-Hearing Briefs. The reviewer may request post-hearing briefs.

I. Informal Proceedings. At the request of an applicant, and if each interested party waives the right to present evidence, argument, and conduct cross-examination, the reviewer may establish informal rules for mediation, structured negotiation, or another consensual procedure for reaching a decision.

.12 Holder Responsibilities and Withdrawal of a Certificate of Need or Other Commission Approval.

A. Project Implementation Schedule.

(1) An application for a CON or other Commission approval shall propose a schedule for implementation of the project that specifies the estimated time for, at a minimum, the following project implementation steps:

(a) The time required to enter a binding obligation following Commission approval of the application for the project;

(b) The time required to initiate construction, renovation, or both following execution of a binding obligation;

(c) The time required to complete the approved construction, renovation, or both following initiation of construction, renovation, or both; and

(d) The time required to place the new facility or modified facility in operation following the completion of approved construction, renovation, or both.

(2) The proposed project implementation schedule for a project requiring a multiphased plan for implementation shall detail those multiple phases and specify the estimated time requirements for, at a minimum, the four time periods listed above for each phase.

(3) A holder shall abide by the project implementation schedule submitted with its application for a CON or other Commission Approval.

(4) The project implementation schedule may be reasonably modified by the holder during the period during which the project is being implemented with approval of Commission staff.

B. Progress Report.

(1) Up until an approved project's completion, licensure, if required, and first use, a holder shall submit a semiannual progress report in the form and manner prescribed by Commission staff.

(2) The semiannual progress report shall detail the holder's compliance with the project implementation schedule and any conditions on approval imposed by the Commission.

(3) A holder shall submit the semiannual progress reports in accordance with the following schedule:

(a) The first report shall be due at least 45 days before the 6-month anniversary of the final action awarding the CON or other Commission approval; and

(b) Subsequent progress reports shall be due every 6 months after the due date of the prior report.

C. Obligation.

(1) Except as provided by §C(2) of this regulation, a holder shall obligate at least 51 percent of the approved capital expenditure for a project involving building construction, renovation, or both, as documented by a binding construction contract or equipment purchase order, within the following specified time periods:

(a) An approved new hospital has up to 36 months to document the required obligation;

(b) A project involving an approved new non-hospital health care facility or involving a building addition or replacement of building space of a health care facility has up to 24 months to document the required obligation;

(c) A project limited to renovation of existing building space of a health care facility has up to 18 months to document the required obligation; and

(d) A project that does not involve construction or renovation shall document that the approved project is complete and operational within 18 months of project approval.

(2) In a multiphased plan of construction with more than one construction contract approved for an existing health care facility, a holder has:

(a) Up to 12 months after approval to obligate 51 percent of the capital expenditure for the first phase of construction; and

(b) Up to 12 months after completion of the immediately preceding phase of construction to obligate 51 percent of the capital expenditure for any subsequent approved phase of construction.

D. *Effective Date of a CON or other Commission approval.* The effective date of a CON or other approval is the date of Commission action approving the application for the project. If a request for reconsideration is timely filed under Regulation .19 of this chapter, the effective date of the approval is the date the Commission rules on the request. The filing of a notice of appeal does not stay enforcement of the Commission decision.

E. *Grounds for Withdrawal of Commission Approval.* The Commission may withdraw a CON or other Commission approval if it finds that:

(1) The holder made a material misrepresentation upon which the Commission relied in approving the application;

(2) The holder failed to demonstrate sufficient progress in implementing the project;

(3) The holder has failed to obligate or complete an approved project as required by §A of this regulation;

(4) The holder failed to meet a condition on the approval;

(5) The holder failed to timely provide the semiannual progress report required under §B of this regulation; or

(6) The project differs materially from that approved by the Commission.

F. *Notice Before Withdrawal of a CON or Other Commission Approval.*

(1) If Commission staff determines that a CON or other Commission approval should be withdrawn, Commission staff shall inform the holder and each appropriate local health department, setting forth in writing the reasons for the proposed withdrawal.

(2) This notice shall set forth the right of the holder to submit written argument in support of its position and present oral argument to the Commission, as well as the right to an evidentiary hearing conducted in accordance with Regulation .11 of this chapter, to show cause why the approval should not be withdrawn.

(3) A holder that has failed to demonstrate sufficient progress in project implementation shall show good cause for the lack of progress.

G. *Final action by the Commission withdrawing a CON or other approval shall:*

(1) Be in writing;

(2) Include findings of fact and conclusions of law; and

(3) Be transmitted to the holder and to each appropriate local health department within 30 days of the date of action by the Commission.

H. *CON Application after Withdrawal of a Prior CON.* If a CON or other approval is withdrawn due to lack of sufficient progress in implementing the project, the holder may file an application seeking Commission approval to initiate or complete the previously authorized project, which shall be considered a new application by the Commission.

.13 Procedures for Certificate of Conformance and Certificate of Ongoing Performance Applications.

A. Coverage.

(1) A certificate of conformance is required to introduce primary or elective percutaneous coronary intervention services at a hospital.

(2) A certificate of ongoing performance is required and shall be periodically renewed to certify that a hospital providing cardiac surgery services or percutaneous coronary intervention services is maintaining an acceptable level of quality and performance in its provision of those services.

(3) A hospital with newly established cardiac surgery services or percutaneous coronary intervention services at an acute general hospital may continue to provide services without a certificate of ongoing performance until the Commission acts on the hospital's first application for a certificate of ongoing performance.

B. Submission of Applications.

(1) An application for a certificate of conformance or a certificate of ongoing performance shall be submitted to the Commission in a form and manner prescribed by the Commission.

(2) An application shall be submitted in accordance with a published review schedule established by the Commission under §E of this regulation, except that applications to establish both primary and elective percutaneous coronary intervention services based on insufficient access under COMAR 10.24.17.04A(2)(b) may be filed at any time.

(3) The application, and all information supplementing the application, shall be signed by at least one principal of the applicant, who shall sign a statement as follows: "I solemnly affirm under penalties of perjury that the contents of this application are true to the best of my knowledge, information, and belief."

C. Completeness Review of Certificate of Conformance Applications.

(1) Commission staff shall review a certificate of conformance application for completeness within 15 business days.

(2) If staff determines the application is not complete, staff may request additional information to make the application complete within the 15-business-day period to review the application. The applicant shall provide full and clear responses to the completeness and additional information request within 15 business days unless an extension is requested and granted.

(3) If Commission staff determines after review of the application and information provided in response to staff's request that the application is complete, staff shall notify the applicant of its determination.

(4) If an applicant fails to supply requested information within the specified time limit, staff may dismiss and return the application.

D. Additional Information. Commission staff may:

(1) Request information from an applicant supplementing an application at any time during the review of an application, provided that such additional information is material to the determination of whether the applicant has satisfied the criteria and standards for approval; and

(2) Set reasonable time limits for the applicant to supply the requested information.

E. Notice to the Public.

(1) *At least once each year, the Commission staff shall publish in the Maryland Register a schedule for reviews of:*

- (a) *Certificate of conformance applications to establish primary or elective percutaneous coronary intervention services; and*
- (b) *Certificate of ongoing performance applications if at least one hospital is required to file an application in the time period covered by the schedule.*

(2) *The Commission shall publish, on its website, information on the receipt of applications for certificates of conformance and certificates of ongoing performance.*

F. The Commission shall act on an application for a certificate of conformance not later than 120 days after staff notified the applicant that the application is complete, except for applications reviewed in conjunction with a CON application in accordance with COMAR 10.24.17.04C.

G. Criteria for Review of Applications. Applicable criteria and standards for certificate of conformance reviews and certificate of ongoing performance reviews are specified in COMAR 10.24.17, the State Health Plan chapter for cardiac surgery and percutaneous coronary intervention services.

H. Staff Report and Recommendation. Commission staff shall review a certificate of conformance and certificate of ongoing performance applications and prepare a staff report and recommendation that contains the staff's conclusion as to whether the applicant has met each applicable criterion and standard in COMAR 10.24.17.

I. Exceptions.

(1) *An applicant may submit exceptions to a staff report and recommendation and present oral argument on its exceptions to the Commission.*

(2) *Schedule.*

(a) *Staff's issuance of a staff report and recommendation shall be accompanied by a notice that specifies the schedule for the submission of exceptions and the date of the Commission meeting at which the Commission shall hear oral argument on exceptions.*

(b) *Unless otherwise agreed by each applicant and interested party, the schedule issued by Commission staff shall specify that:*

- (i) *A party filing exceptions has at least 10 days to file exceptions; and*
- (ii) *A party filing a response to exceptions has at least 7 days to file a response.*

(c) *The Commission staff may shorten these periods by agreement of the parties, or extend any deadlines set for good cause shown.*

(3) *Exceptions shall specifically identify each staff conclusion to which exception is taken, citing those portions of the record on which each exception is based.*

(4) *Exceptions and any response to exceptions shall be limited to 25 pages, double-spaced, excluding attachments.*

(5) *Commission staff may file a written response to exceptions and present oral argument at the exceptions hearing.*

(6) *Oral arguments on exceptions to the staff report and recommendation and any response shall be limited to 10 minutes per argument unless extended by the Chair of the Commission.*

J. Final Decision on an Application for Certificate of Conformance.

(1) *A final decision on an application for a certificate of conformance shall contain findings of fact and conclusions of law and shall:*

- (a) *Approve the application;*
- (b) *Approve the application with conditions; or*
- (c) *Deny the application.*

(2) *A certificate of conformance issued by the Commission for an approved application shall specify the period of time for which the initial certificate is effective and the expected date by which the hospital is expected to seek a certificate of ongoing performance for its primary or elective percutaneous coronary intervention services or both.*

K. Final Decision on an Application for Certificate of Ongoing Performance.

(1) *The Commission's final decision on an application for a certificate of ongoing performance shall contain findings of fact and conclusions of law and shall:*

- (a) *Approve the application;*
- (b) *Approve the application with conditions; or*

(c) *Deny the application or revoke the Commission's approval for the involved services provided that all the steps in COMAR 10.24.17 including performance of a focused review and an opportunity for agreement upon and completion of a plan of correction have been provided to the hospital.*

(2) *A certificate of ongoing performance issued by the Commission shall specify the period of time for which the certificate is effective and the expected date by which the hospital is expected to seek a new certificate of ongoing performance for its primary or elective percutaneous coronary intervention services or both, as applicable, or for its cardiac surgery services.*

(3) *The duration of a certificate of ongoing performance may be extended beyond the renewal deadline, if due to extenuating circumstances, the Executive Director determines an extension is necessary and appropriate, prior to staff producing a written report and recommendation to the Commission regarding the hospital's application for renewal of its certificate of ongoing performance.*

L. The decision of the Commission shall be by a majority of the quorum present and voting.

M. The decision of the Commission is subject to judicial review in accordance with Regulation .09F of this chapter.

.14 Special Procedures.

A. Determination of Coverage. Except as otherwise provided in Regulations .03 or .05 of this chapter, a project that requires a determination of coverage shall be dealt with in the following manner:

(1) *A written request for determination of coverage shall be filed with the Center for Health Care Facilities Planning and Development.*

(2) *The Executive Director of the Commission shall review the request and act on it within 30 business days of receipt of complete information.*

(3) *The person requesting the determination shall provide all additional information requested by Commission staff.*

(4) *The Commission shall notify the person, each appropriate local health department, and each agency responsible under the Department's licensure program for the type of project whether it requires a Certificate of Need or other Commission review.*

(5) Commission staff's determination of coverage may be appealed by the requesting party to the Commission by use of a motion filed in accordance with Regulation .10C of this chapter.

(6) The Executive Director may issue a determination that:

- (a) Certificate of Need or other Commission review is not required; or
- (b) Certificate of Need review is required for stated reasons.

B. Declaratory Rulings.

(1) A person uncertain as to how a statute or regulation enforced by the Commission applies to that person or that person's property may file with the Commission a petition for a declaratory ruling in accordance with the procedures in §B of this regulation.

(2) The Commission may decline to issue a declaratory ruling for any of the following reasons:

- (a) The petition is not in accordance with this section;
- (b) The petition contains insufficient factual or legal information upon which to base a declaratory ruling;
- (c) The petition raises issues adequately addressed in a final decision or regulation of the Commission;
- (d) The petition fails to pose a significant issue;
- (e) The petition is properly heard as part of an evidentiary hearing; or
- (f) A declaratory ruling would not be in the public interest.

(3) Within 15 days of receipt of a petition, the Executive Director shall either assign the petition to the full Commission for a decision or appoint a Commissioner to make a proposed ruling on the petition, which ruling shall be considered by the full Commission.

(4) Within 45 days, or by the second regularly scheduled Commission meeting following the filing of the petition, whichever is later, the Commission shall rule or decline to rule on the petition, or may postpone issuing a formal written declaratory ruling for up to 35 days.

(5) To secure a declaratory ruling, an affected person shall submit a petition for a declaratory ruling that contains the following information:

- (a) The petitioner's name, address, and telephone number;
- (b) A one or two sentence statement of each question on which a ruling is requested;
- (c) A one or two sentence summary of the petitioner's position on each question;
- (d) Citation to each provision that the Commission needs to interpret in order to answer each question posed;
- (e) A brief statement of each relevant fact;
- (f) The petitioner's factual, legal, and policy arguments, referring to documents, affidavits, data, and other relevant information, which shall be appended to the petition, unless the documents are readily accessible to the Commission; and
- (g) A statement by the petitioner under penalties of perjury that each fact recited as relevant to the question posed is true to the best of the petitioner's knowledge, information, and belief.

(6) The Commission shall promptly publish notice of the receipt of a petition in the Maryland Register and shall note the petition on meeting agendas until the Commission acts upon the petition.

(7) The Commissioner making a proposed ruling or the Commission, in addition to considering the materials submitted by the petitioner and comments from staff, may:

- (a) Request and receive oral or written statements from any person;
- (b) Consider any document, data, study, or other relevant material; or
- (c) Require argument on the question on the record, giving the petitioner the opportunity to present argument and to proffer witnesses and documents for the Commission's consideration.

(8) The proposed and final declaratory ruling shall be in writing, and state:

- (a) Each question addressed;
- (b) The proposed or final ruling; and
- (c) The factual and legal basis for the ruling.

(9) A final declaratory ruling binds the Commission and the petitioner on the facts set forth in the petition, except when this binding effect violates the due process rights of a competing applicant in a comparative review.

(10) The Commission may revoke, alter, or amend a proposed or final declaratory ruling, which may have prospective effect only.

(11) A petitioner may appeal the declaratory ruling as set forth in State Government Article, Title 10, Annotated Code of Maryland.

.15 Commission Approval Required Before Certain Actions.

A. Obligation of Capital Expenditure.

(1) A person may not incur an obligation for a capital expenditure for a project that is subject to review under these regulations until the applicant receives a CON or other required Commission approval.

(2) An obligation for capital expenditure is incurred by or on behalf of a health care facility:

- (a) When a contract, enforceable under State law, is entered into by or on behalf of the health care facility for the construction, acquisition, lease, or financing of a capital asset;
- (b) When a governing body of the health care facility takes formal action to commit its own funds for a construction project undertaken by the health care facility as its own contractor; or
- (c) In the case of donated property, on the date on which the gift is completed under applicable State law.

B. Obligation of Predevelopment Expenditures. An applicant proposing predevelopment expenditures requiring review under this chapter may not enter into a binding contract or other obligation for such activities until the applicant receives a CON or other required Commission approval.

C. Binding Commitments for Financing. A binding arrangement or commitment for financing a project may not be entered into by an applicant until the applicant receives a CON or other required Commission approval for the project.

.16 Voluntary Withdrawal of an Application.

An applicant may voluntarily withdraw its application without prejudice prior to final action by the Commission on the application. Written notice of the withdrawal shall be submitted to the Commission through the Executive Director. A withdrawn application may be resubmitted at a

later date as a new application.

.17 Project Changes After Commission Approval.

A. *Filing of Request.* A holder that desires to change a project that has received CON or other Commission approval shall submit a request for the proposed change and supporting documentation to the Commission, copying each local health department within the health planning region of the project and, in the case of a change in the location or address of a project involving construction of a new health care facility, to all health care facilities of that type located in the health planning region.

B. *Commission Approval Required Before Project Changes.* Any of the following proposed changes that would place the project at variance with its CON or other approval issued under this chapter, including any condition placed on the approval, shall be reviewed by the Commission:

(1) A significant change in physical plant design;

(2) A capital cost increase that exceeds the approved capital cost inflated by an amount determined by applying the Hospital Capital Market Baskets published by IHS Markit in Health Care Cost Review or other guidance approved by the Commission and posted on the Commission website from the application submission date to the date of the filing of a request for a project change;

(3) A change in the financing mechanisms of the project; or

(4) A change in the location of the project.

C. *Impermissible Changes.* The following proposed changes to an approved project require a new CON or other appropriate review and may not be considered by the Commission:

(1) Changes in the fundamental nature of a facility or the services to be provided in the facility from those that were approved by the Commission;

(2) Increases in the facility's total bed capacity or operating room inventory; or

(3) Changes in the medical service provided or approved.

D. *Commission Action.*

(1) Requested changes subject to review under §B of this regulation shall be reviewed by the Commission.

(2) Within 5 days after the Commission's receipt of a written request to change the address or location of an approved project, Commission staff shall arrange to publish notice of receipt of the change request in the Maryland Register and one newspaper of general circulation in the appropriate health planning region, shall post the notice on its website, and shall provide written notice of receipt of the change request to:

(a) Each member of the General Assembly in whose district the relocation is planned;

(b) Each member of the governing body for the jurisdiction in which the relocation is planned; and

(c) The county executive, mayor, or chief executive officer, if any, in whose county or city the relocation is planned.

(3) The Commission shall provide a written notification within 45 days of the Commission's receipt of a complete change request that:

(a) The proposed change is approved in whole or part and incorporated into a modified CON or other modified approval for the project with conditions as appropriate; or

(b) The proposed change is denied, with explanation.

.18 Review Required Before Licensing or First Use of Project.

A. *Request for First Use Review and Approval.* Not fewer than 60 days but not more than 120 days before the first use of any portion of a facility or service developed under a CON or other Commission approval, the holder shall specify the anticipated date for first use and request in writing, through the Center for Health Care Facilities Planning and Development, a final review and first use approval. The request shall include:

(1) Documentation of the final cost of the project; and

(2) A description of any differences in physical plant design, space, or services in the finished project when compared with the description of the project reviewed and approved by the Commission.

B. *Action on Request.* Within 30 days of receipt of all required information, Commission staff shall issue an approval for first use or a finding that the project does not conform to its CON or other Commission approval. Issuance of first use approval is not a new final decision concerning a CON and may not be appealed.

C. *Nonconformance with CON or Other Commission Approval.* If the Executive Director finds that a project does not conform to its CON or other approval, the applicant may not proceed to licensure or first use until the Executive Director issues a written finding that the project conforms with its approval. Based on a finding that a project varies significantly from the project that was granted a CON or other approval, the Executive Director may invoke the full review process established in Regulation .04, Regulations .08—10, and Regulation .13 of this chapter in order to reexamine the project.

D. *Duration of First Use Approval.* First use approval remains in effect for 90 days. If a project is not put into use within that 90-day period, the holder shall reapply for first use approval.

.19 Reconsideration Procedures.

A. *Request for Reconsideration.* An aggrieved party may request that the Commission conduct a hearing to reconsider a Commission final decision to grant, to grant with conditions, or to deny a Certificate of Need application, a request for an exemption from CON review, or a certificate of conformance application issued under this chapter. This request shall be in writing and filed with the Center for Health Care Facilities Planning and Development within 15 days of the date upon which the Commission renders its decision and shall show good cause for reconsideration of the decision.

B. *Good Cause.* For purposes of this regulation, a request for a reconsideration shows good cause if it:

(1) Presents significant, relevant information which was not previously presented to the Commission and which, with reasonable diligence, could not have been presented before the Commission made its decision;

(2) Demonstrates that there have been significant changes in factors or circumstances relied upon by the Commission in reaching its decision; or

(3) Demonstrates that the Commission has materially failed to follow its adopted procedures in reaching its decision.

C. Notice of Reconsideration Request. At least 15 days prior to the date the Commission will consider a request for reconsideration, the Commission shall provide written notice of the date to the person making the request, each applicant, each interested party, and each relevant local health department. Each interested party may file a written response.

D. A request to present oral arguments shall be made at the time of filing an initial request for reconsideration or a response.

E. If the Commission determines that good cause has been demonstrated, the Commission may reverse or modify its previous decision. Within 30 days, the Commission shall issue a new decision containing written findings of fact and conclusions of law stating the basis for its decision, which shall be its final decision for the purpose of judicial review.

.20 Emergency Certificate of Need.

A. The Executive Director may issue an emergency Certificate of Need under the following circumstances that would otherwise require issuance of a CON:

(1) A situation presents hazards to employees or patients of a health care facility, and the project required to address the situation would otherwise require CON review;

(2) The closing of a health care facility by State licensing authorities requires changes or adjustments in other facilities to accommodate displaced patients, and the changes or adjustments would otherwise require that these facilities obtain a CON under these regulations; or

(3) A project that would require CON review is necessary to address a public health emergency and cannot be delayed.

B. Procedure for an Emergency Certificate of Need.

(1) A health care facility may apply for an emergency CON by sending a signed letter in PDF format by email and hard copy to the Executive Director that contains:

(a) A description of the project for which an emergency CON is sought;

(b) An explanation of the need for emergency action;

(c) The location and current use of the space where the proposed project will be implemented;

(d) The time frame by which the project can be implemented;

(e) Approximate cost, if known; and

(f) Status of existing unused physical bed space at the health care facility that could quickly be converted to inpatient or resident care to address the emergency.

(2) The applicant shall timely provide additional information requested by Commission staff.

C. Commission Action.

(1) The Executive Director may grant or deny an emergency CON application after consultation with the Chair of the Commission and receipt of suitably detailed information from the applicable State licensing agency regarding the need for emergency action. If, upon receipt of this information, the Executive Director agrees that the project is needed to address an emergency situation, the Executive Director shall issue an emergency Certificate of Need. The issuance of an emergency CON shall be on the agenda of the next scheduled Commission meeting for confirmation by the Commission.

(2) The Executive Director may exercise the discretion not to make a decision on an emergency CON application and refer the application for consideration by the Commission. If a quorum of the Commission agrees that the project is needed to address an emergency situation, the Commission shall issue an emergency Certificate of Need.

D. Duration of Emergency Certificate of Need. The emergency CON is temporary and is valid for a period not to exceed 165 days. The duration of an emergency CON may be extended by the Executive Director for good cause shown by the applicant or at the request of the Secretary.

E. A health care facility that desires to retain the capacity or project approved in an emergency CON shall, at least 30 days before the termination of the emergency CON, file a letter of intent followed by a CON application in accordance with the provisions in Regulation .08 of this chapter for an unscheduled review. The normal review process and time period set forth in this chapter apply to the review of a CON application filed after issuance of an emergency CON. This filing deadline may be extended by the Executive Director. The duration of an emergency CON shall be extended automatically during any period of time when the applicant has properly and timely sought a CON to retain the capacity or project approved on an emergency basis.

F. Review of Denied Application. In the event the Executive Director denies an application for an emergency CON, the applicant may submit a written request for Commission review of the decision within 15 days of the denial, stating with particularity the grounds and factual basis for the applicant's disagreement with the Executive Director's decision. The Commission shall make a decision on the request for review within 45 days of the request.

.21 Severability.

If any provision of this chapter is declared void by a court of law, the remainder of this chapter shall be unaffected and of continued force and effect.

.22 Effective Date.

A. A letter of intent or application submitted after the effective date of these regulations is subject to their provisions.

B. A request for a determination of coverage under Regulation .14A of this chapter, submitted after the effective date of these regulations, is subject to the provisions of this chapter.

C. Upon request by a holder, a project that has previously received a Certificate of Need or other Commission approval may be governed by this chapter.

D. Pending Reviews.

(1) Except in contested or comparative CON reviews, an application for a CON or other Commission approval pending at the time these regulations become effective shall be subject to their provision upon request of the applicant.

(2) Upon request of an applicant for a CON in a contested or comparative review, an application pending at the time these regulations become effective may be subject to their provisions with the consent of all interested parties and upon a finding of good cause by the reviewer.

(3) If the applicable CON review criteria have materially changed as a result of these regulations, the application of these regulations to a pending CON application shall be deemed a modification and governed by Regulation .08E of this chapter.

RANDOLPH S. SERGENT
Chair
Maryland Health Care Commission

Subtitle 67 MARYLAND HEALTHCHOICE PROGRAM

10.67.08 Maryland Medicaid Managed Care Program: Non-Capitated Covered Services

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

Notice of Proposed Action

[23-120-P]

The Secretary of Health proposes to amend Regulation .02 under **COMAR 10.67.08 Maryland Medicaid Managed Care Program: Non-Capitated Covered Services**.

Statement of Purpose

The purpose of the proposed action is to:

- (1) Update the list of behavioral health diagnosis codes to reflect the addition of new International Classification of Diseases, 10th Revision (ICD-10) diagnosis codes;
- (2) Remove the mental health and substance use disorder diagnosis code tables for dates of service before October 1, 2015;
- (3) Update the current revenue codes included in the behavioral health carve out;
- (4) Carve out the new peer recovery support services and behavioral health crisis services; and
- (5) Correct COMAR references.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jourdan Green, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

.02 Behavioral Health Non-Capitated Covered Services.

A. An MCO is not responsible for reimbursing for the following substance use disorder services, regardless of diagnosis:

(1) Services delivered by a community-based provider as described in COMAR 10.09.80 with the following procedure codes:

H0001— H0020	(text unchanged)
H0024	<i>Group peer recovery support services</i>
H0038	<i>Individual peer recovery support services</i>
H0047— Q9992	(text unchanged)

(2) (text unchanged)

B.—C. (text unchanged)

D. An MCO is not responsible for reimbursing for the following substance use disorder services if the MCO is billed with a primary diagnosis listed in [§K] §M of this regulation:

(1) Services delivered by an inpatient hospital with the following revenue codes:

0114—0156	(text unchanged)
0169	<i>Administrative Days</i>
0762	(text unchanged)

(2)—(3) (text unchanged)

E. An MCO is not responsible for reimbursing for mental health services with a primary diagnosis listed in [§M] §N of this regulation when the services are provided by a hospital and the services are the result of the treatment of mental health diagnosis.

F.—G. (text unchanged)

H. An MCO is not responsible for reimbursing the behavioral poisoning diagnoses listed in [§O] §P of this regulation in an emergency department setting.

I. An MCO is not responsible for services billed by specialty mental health providers listed in COMAR 10.09.59 when the bill includes the specialty behavioral health diagnoses listed in [§L or M] §M or N in the primary diagnosis field.

J. An MCO is not responsible for reimbursement of behavioral health crisis services as described in COMAR 10.09.16.

[J.] K.—[K.] L. (text unchanged)

[L.] M. Table of substance use disorder diagnoses, for dates of service on or after October 1, 2015:

[(1)] (table proposed for repeal)

[(2)] For dates of service on or after October 1, 2015:]

F1010— F1029	(text unchanged)
<i>F1090</i>	<i>Alcohol use, unspecified, uncomplicated</i>
<i>F1091</i>	<i>Alcohol use, unspecified, in remission</i>
F10920— F1190	(text unchanged)
<i>F1191</i>	<i>Opioid use, unspecified, in remission</i>
F11920— F1290	(text unchanged)
<i>F1291</i>	<i>Cannabis use, unspecified, in remission</i>
F12920— F1390	(text unchanged)
<i>F1391</i>	<i>Sedative, hypnotic, or anxiolytic use, unspecified, in remission</i>
F13920— F1490	(text unchanged)
<i>F1491</i>	<i>Cocaine use, unspecified, in remission</i>
F14920— F1590	(text unchanged)
<i>F1591</i>	<i>Other stimulant use, unspecified, in remission</i>
F15920— F1690	(text unchanged)
<i>F1691</i>	<i>Hallucinogen use, unspecified, in remission</i>
F16920— F1890	(text unchanged)
<i>F1891</i>	<i>Inhalant use, unspecified, in remission</i>
F18920— F1990	(text unchanged)
<i>F1991</i>	<i>Other psychoactive substance use, unspecified, in remission</i>
F19920— R785	(text unchanged)

[M.] N. Table of mental health diagnoses, for dates of service on or after October 1, 2015:

[(1)] (table proposed for repeal)

[(2)] For dates of service on or after October 1, 2015:]

F200—F319	(text unchanged)
<i>F32A</i>	<i>Depression, unspecified</i>
F320—F4329	(text unchanged)
<i>F4381</i>	<i>Prolonged grief disorder</i>
[F438] <i>F4389</i>	(text unchanged)
F439—G259	(text unchanged)
[R457]	State of emotional shock and stress, unspecified
R45850	Homicidal ideations
R45851	Suicidal ideations]
O99340— O99345	(text unchanged)
<i>R457</i>	<i>State of emotional shock and stress, unspecified</i>
<i>R45850</i>	<i>Homicidal ideations</i>
<i>R45851</i>	<i>Suicidal ideations</i>
<i>T1491XA</i>	<i>Suicide attempt, initial</i>
Z046	(text unchanged)

[N.] O. (text unchanged)

[O.] P. Table of poisoning diagnoses, for dates of service on or after July 1, 2016:

T360X2A— T3992XA	(text unchanged)
<i>T400X1A</i>	<i>Poisoning by opium, accidental (unintentional), initial encounter</i>
T400X2A	(text unchanged)

T401X1A	<i>Poisoning by heroin, accidental (unintentional), initial encounter</i>
T401X2A	(text unchanged)
T402X1A	<i>Poisoning by other opioids, accidental (unintentional), initial encounter</i>
T402X2A	(text unchanged)
T403X1A	<i>Poisoning by methadone, accidental (unintentional), initial encounter</i>
T403X2A	(text unchanged)
T40411A	<i>Poisoning by fentanyl or fentanyl analogs, accidental (unintentional), initial encounter</i>
T40412A	(text unchanged)
T40421A	<i>Poisoning by tramadol, accidental (unintentional), initial encounter</i>
T40422A	(text unchanged)
T40491A	<i>Poisoning by other synthetic narcotics, accidental (unintentional), initial encounter</i>
T40492A	(text unchanged)
T405X1A	<i>Poisoning by cocaine, accidental (unintentional), initial encounter</i>
T405X2A	(text unchanged)
T40601A	<i>Poisoning by unspecified narcotics, accidental (unintentional), initial encounter</i>
T40602A	(text unchanged)
T40691A	<i>Poisoning by unspecified narcotics, accidental (unintentional), initial encounter</i>
T40692A	(text unchanged)
T40711A	<i>Poisoning by cannabis, accidental (unintentional), initial encounter</i>
T40712A	<i>Poisoning by cannabis, intentional self-harm, initial encounter</i>
T40721A	<i>Poisoning by synthetic cannabis, accidental (unintentional), initial encounter</i>
T40722A	<i>Poisoning by synthetic cannabis, intentional self-harm, initial encounter</i>
T407X1A	<i>Poisoning by cannabis (derivates), accidental (unintentional), initial encounter</i>
T407X2A	(text unchanged)
T408X1A	<i>Poisoning by lysergide [LSD], accidental (unintentional), initial encounter</i>
T408X2A	(text unchanged)
T40901A	<i>Poisoning by unspecified psychodysleptics [hallucinogens], accidental (unintentional), initial encounter</i>
T40902A	(text unchanged)
T40991A	<i>Poisoning by other psychodysleptics [hallucinogens], accidental (unintentional), initial encounter</i>
T40992A— T422X2A	(text unchanged)
T423X1A	<i>Poisoning by barbiturates, accidental (unintentional), initial encounter</i>
T423X2A	(text unchanged)
T424X1A	<i>Poisoning by benzodiazepines, accidental (unintentional), initial encounter</i>
T424X2A— T43592A	(text unchanged)
T43601A	<i>Poisoning by unspecified psychostimulants, accidental (unintentional), initial encounter</i>
T43602A— T43612A	(text unchanged)
T43621A	<i>Poisoning by amphetamines, accidental (unintentional), initial encounter</i>
T43622A	(text unchanged)
T43631A	<i>Poisoning by methylphenidate, accidental (unintentional), initial encounter</i>
T43632A	(text unchanged)
T43641A	<i>Poisoning by ecstasy, accidental (unintentional), initial encounter</i>
T43651A	<i>Poisoning my methamphetamines, accidental (unintentional), initial encounter</i>
T43652A	<i>Poisoning by methamphetamines, intentional self-harm, intentional encounter</i>
T43692A— T506X2A	(text unchanged)

T507X1A	<i>Poisoning by analeptics and opioid receptor antagonists, accidental (unintentional), initial encounter</i>
T507X2A— T50902A	(text unchanged)
T50912A	<i>Poisoning by multiple unspecified drugs, medications and biological substances, intentional self-harm, initial self-harm, initial encounter</i>
T50992A	(text unchanged)

LAURA HERRERA SCOTT
Secretary of Health

Title 13A STATE BOARD OF EDUCATION

Subtitle 02 LOCAL SCHOOL ADMINISTRATION

13A.02.06 General Financial Aid to Local School Systems

Authority: Education Article, §§2-205, 5-202, 5-205—5-209, 5-212, 5-218, 5-222, 5-224, 5-225, 7-101, 7-101.1, 8-101—8-105, 8-403, and 8-404, Annotated Code of Maryland

Notice of Proposed Action

[23-119-P]

The State Board of Education proposes to amend Regulations .01, .02, and .05—.07 under **COMAR 13A.02.06 General Financial Aid to Local School Systems**. This action was considered by the State Board of Education at their May 23, 2023, meeting.

Statement of Purpose

The purpose of this action is to provide transportation services for public school students and students with disabilities who may require placement in a nonpublic school to implement their individualized education program (IEP), as well as those who may require transportation services and have a Section 504 plan.

Estimate of Economic Impact

I. Summary of Economic Impact. Funding will be provided directly to local education agencies (LEAs) to use for the transportation of students with disabilities.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
Maryland State Department of Education	(E+)	Unknown
B. On other State agencies:		
	NONE	
C. On local governments:		
Local education agencies	(R+)	Unknown

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
	NONE	
E. On other industries or trade groups:		
	NONE	
F. Direct and indirect effects on public:		
	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The amount of “disabled ridership” funds that the MSDE provides may increase as more students will be determined to be eligible due to now having a Section 504 plan with transportation identified as a related service. This amount is \$1,000 per “disabled student” that is transported by an LEA the last Friday of October.

C. The amount of “disabled ridership” funds that LEAs are eligible for will increase as more students will be determined to be eligible due to now having a Section 504 plan with transportation identified as a related service. This amount is \$1,000 per “disabled student” that is

transported by an LEA the last Friday of October.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

Funding will be provided directly to the local education agencies to use for the transportation of students with disabilities.

Opportunity for Public Comment

Comments may be sent to Gabriel D. Rose, Director, Office of Pupil Transportation/Emergency Management, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0209, or email to gabriel.rose1@maryland.gov. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on September 26, 2023, at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

.01 Scope.

This chapter applies to enrollment collection requirements for the calculation of State financial assistance for the 24 public school systems in Maryland through the foundation program and the compensatory education, [limited English proficient,] *English learner education*, special education, and [disabled student] transportation *services* grants.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(7) (text unchanged)

[(8) "Disabled student" means a student requiring special education services, as defined by the federal Individuals with Disabilities Education Act.]

[(9)] (8)—[(12)] (11) (text unchanged)

[(13) "Limited English proficient student" means a student requiring English language acquisition services, as defined under Title III of the federal Elementary and Secondary Education Act.]

[(14)] (12)—[(15)] (13) (text unchanged)

[(16) "Special education student" means a student requiring special education services, as defined in the federal Individuals with Disabilities Education Act.]

.05 State Financial Assistance Under the [Limited English Proficiency] *English Learner Education Grant*.

A. A [limited English proficient] student may be counted as eligible for State aid under the [limited English proficiency] *English learner education grant* if the student:

(1)—(2) (text unchanged)

(3) Is receiving English language acquisition services, *as defined under Title III of the Federal Elementary and Secondary Education Act*, through a local school system on October 31 of the prior fiscal year.

B.—C. (text unchanged)

.06 State Financial Assistance Under the Special Education Grant.

A. A [special education] student may be counted as eligible for State aid under the special education grant if the student is:

(1)—(2) (text unchanged)

(3) Receiving special education services, *as defined in the federal Individuals with Disabilities Education Act*, on October 1 of the prior fiscal year.

B.—C. (text unchanged)

.07 State Financial Assistance Under the [Disabled Student] Transportation Services Grant.

A. A [disabled] student may be counted as eligible for State aid under the [disabled student] transportation *services* grant if:

(1) (text unchanged)

(2) The student is enrolled in a public school [in a local school system], *a school maintained by a State agency, or a nonpublic school*;

(3) [Special transportation] *Transportation* services are identified as a related service for a free appropriate public education in the student's individualized education program *or in the student's Section 504 plan*; and

(4) (text unchanged)

B. The service providing local school system may include a student enrolled as the result of an out-of-county living arrangement under Education Article, §4-122, Annotated Code of Maryland, in its count for the purpose of calculating State aid under the [disabled student] transportation *services* grant if the student meets all other eligibility requirements.

C. If a local school system provides services to a nonlocal resident student under Education Article, §4-121, Annotated Code of Maryland, the local school system may include the nonlocal resident student in its enrollment count for the purpose of calculating State aid under the [disabled student] transportation *services* grant if the student meets all other eligibility requirements.

MOHAMMED CHOUDHURY
State Superintendent of Schools

Subtitle 07 SCHOOL PERSONNEL

13A.07.06 Programs for Professionally Licensed Personnel

Authority: Education Article, §§1-303(2)(ii) and (iii), 2-205, 6-120, 6-121, 6-126, 6-704, and 11-208, Annotated Code of Maryland

Notice of Proposed Action

[23-075-P-I]

The Professional Standards and Teacher Education Board proposes to repeal existing Regulation .01 under existing COMAR 13A.07.06 Programs for Professionally Certified Personnel and adopt new Regulations .01—.15 under COMAR 13A.07.06 Programs for Professionally Licensed Personnel. This action was considered by the Professional Standards and Teacher Education Board at its meeting on December 1, 2022, and the State Board of Education at its meeting on January 24, 2023.

Statement of Purpose

The purpose of this action is to adopt regulations in accordance with The Blueprint for Maryland’s Future and the Teacher Induction, Retention, and Advancement Final Report (2017).

Estimate of Economic Impact

I. Summary of Economic Impact. Education Article, §11-208, Annotated Code of Maryland, defines the Department’s role in paying for fees and partial expenses associated with national accreditation. The fee for National Accreditation by the Council for the Accreditation of Educator Preparation (the most prevalent organization) can be as much as \$6,890 per Institution, annually. The expenses associated with monitoring visits, which occur every 5—7 years, include \$2,435 (fee) per reviewer for a total of five reviewers, \$850 per person for travel costs, and on-site expenses to include meals, supplies, and technology. The estimated cost per visit is approximately \$18,000. There are currently 23 institutions of higher education that offer educator preparation programs in Maryland and may choose to become nationally accredited under Education Article, §11-208, Annotated Code of Maryland.

These regulations pertain to the requirements for the approval and operation of educator preparation programs leading to educator licensure in Maryland. While the MSDE believes that these requirements can be met with minimal impact to the institutions of higher education, public comment from those institutions has indicated that offering a practicum equivalent to a full school year will fiscally impact their operations as it relates to the opening of dorms and providing the necessary supports to the educators participating in the internship.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
Maryland State Department of Education	(E+)	Unknown
B. On other State agencies:		
NONE		
C. On local governments:		
NONE		
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
NONE		
E. On other industries or trade groups:		
NONE		
F. Direct and indirect effects on public:		
Teachers	(+)	Unknown

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. If all 23 institutions of higher education choose to become nationally accredited, the State is obligated to pay the fees for accreditation and half the expenses associated with accreditation. The estimated cost per institution is \$6,890 per year, and \$9,000 per institution every 5—7 years depending on when the accreditation must be renewed.

F. Requiring educator preparation programs to align to national standards and be accountable for providing a full-year practicum will result in a better-qualified, more diverse teacher workforce.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Alexandra Cambra, Director of Program Approval, Division of Educator Certification and Program Approval, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0564, or email to alexandra.cambra@maryland.gov. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Professional Standards and Teacher Education Board during a public meeting to be held on October 5, 2023, at 9:30 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the following have been declared documents generally available to the public and appropriate for incorporation by reference. For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 50:1 Md. R. 7 (January 13, 2023), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

- (1) [Professional Standards for Educational Leaders \(PSEL\), National Policy Board for Educational Administration \(NPBEA\), 2015.](#)
- (2) [Program Recognition Standards: District Level, National Educational Leadership Preparation \(NELP\), 2018.](#)
- (3) [ISTE Standards for Educational Leaders, International Society for Technology in Education \(ISTE\), 2018.](#)
- (4) [Ensuring Quality in Early Childhood Education Professional Preparation Programs: NAEYC's Early Childhood Higher Education Accreditation Standards, 2021.](#)
- (5) [CAEP 2018 K-6 Elementary Teacher Preparation Standards, Council for the Accreditation of Educator Preparation \(CAEP\), 2018.](#)
- (6) [National Council of Teachers of English \(NCTE\) Standards for the Initial Preparation of Teachers of English Language Arts 7–12, 2021.](#)
- (7) [Maryland College and Career Ready \(MCCR\) Standards for English Language Arts/Literacy, 2014.](#)
- (8) [Standards for Mathematical Practice, Common Core State Standards Initiative, 2010.](#)
- (9) [Standards for Mathematics Teacher Preparation, National Council of Teachers of Math \(NCTM\), 2020.](#)
- (10) [Middle Level Teacher Preparation Standards with Rubrics and Supporting Explanations, Association for Middle Level Education \(AMLE\), 2022.](#)
- (11) [Standards for Science Teacher Preparation, National Science Teachers Association \(NSTA\), 2020.](#)
- (12) [Disciplinary Core Ideas \(DCI\) Arrangements of the Next Generation Science Standards, Next Generation Science Standards \(NGSS\), 2017.](#)
- (13) [Initial Practice-Based Professional Preparation Standards for Special Educators, Council for Exceptional Children \(CEC\), 2020.](#)
- (14) [Initial Practice-Based Standards for Early Interventionists/Early Childhood Special Educators, Council for Exceptional Children \(CEC\), 2020.](#)
- (15) [Knowledge and Practice Standards for Teachers of Reading, International Dyslexia Association \(IDA\), 2018.](#)
- (16) [Standards for School-Based Agricultural Education Teacher Preparation Programs, American Association for Agricultural Education \(AAAE\), 2017.](#)
- (17) [Business Teacher Education Curriculum Guide and Program Standards, National Business Education Association \(NBEA\), 2013.](#)
- (18) [Standards for Computer Science Teachers, Computer Science Teachers Association \(CSTA\), 2020.](#)
- (19) [Standards for Technological and Engineering Literacy: The Role of Technology and Engineering in STEM Education, International Technology and Engineering Educators Association \(ITEEA\), 2021.](#)
- (20) [National Standards for Teachers of Family And Consumer Sciences, National Association of State Administrators of Family and Consumer Sciences \(NASAFACS\), 2018.](#)
- (21) [National Core Arts Standards: Theatre, National Coalition for Core Arts Standards, 2014.](#)
- (22) [National Standards for the Preparation of Social Studies Teachers, National Council for Social Studies \(NCSS\), 2017.](#)
- (23) [Handbook, National Association of Schools of Theatre \(NAST\), 2022—2023.](#)
- (24) [NAGC — CEC Teacher Preparation Standards in Gifted and Talented Education, National Association for Gifted Children \(NAGC\) — Gifted and Talented Specialist: Council for Exceptional Children \(CEC\); The Association for the Gifted \(TAG\), 2013.](#)
- (25) [Introduction to the 2016 CACREP Standards, Council for Accreditation of Counseling & Related Educational Programs \(CACREP\), 2016.](#)
- (26) [ASCA Standards, American School Counselor Association \(ASCA\), 2019.](#)
- (27) [Standards Framework for Learners, American Association of School Librarians \(AASL\), 2018.](#)
- (28) [Standards for Accreditation of Master's Programs in Library and Information Studies, Adopted by the Council of the American Library Association \(ALA\), 2015.](#)
- (29) [Standards for the Preparation of Literacy Professionals, International Literacy Association \(ILA\) Standards for the Preparation of Literacy Professional, 2017.](#)
- (30) [Standards for Graduate Preparation of School Psychologists, National Association of School Psychologists \(NASP\), 2010.](#)
- (31) [Standards for School Social Work Services, National Association of Social Workers \(NASW\), 2012.](#)
- (32) [ACTFL/CAEP Program Standards for the Preparation of Foreign Language Teachers, American Council on the Teaching of Foreign Languages \(ACTFL\)/ Council for the Accreditation of Educator Preparation \(CAEP\), 2013.](#)
- (33) [Standards for Learning American Sign Language: A Project of the American Sign Language Teachers Association, American Sign Language Teachers Association \(ASLTA\), 2018.](#)
- (34) [Standards for Art Teacher Preparation, National Art Education Association \(NAEA\), 2009.](#)
- (35) [National Association of Schools of Music \(NASM\), Handbook 2022—2023.](#)
- (36) [National Core Arts Standards: Dance, National Coalition for Core Arts Standards, 2014.](#)
- (37) [National Core Arts Standards: Music, National Coalition for Core Arts Standards, 2014.](#)

- (38) [National Core Arts Standards: Visual Arts, National Coalition for Core Arts Standards, 2014.](#)
- (39) [SOPHE 2019 Health Education Teacher Preparation Standards, Society for Public Health Education \(SOPHE\), 2019.](#)
- (40) [National Standards for Initial Physical Education Teacher Education, Society of Health and Physical Educators \(SHAPE\), 2018.](#)
- (41) [Standards for Initial TESOL Pre-K—12 Teacher Preparation Programs, Teaching English to Speakers of Other Languages \(TESOL\), 2018.](#)
- (42) [WIDA's English Language Development Standards, Kindergarten—Grade 12, WIDA, 2020.](#)
- (43) [Standards for Educators, International Society for Technology in Education \(ISTE\), 2017.](#)
- (44) [Model Core Teaching Standards and Learning Progressions for Teachers 1.0, Interstate Teacher Assessment and Support Consortium \(InTASC\), 2013.](#)
- (45) [Model Code of Ethics for Educators \(MCEE\), National Association of State Directors of Teacher Education and Certification, 2021.](#)
- (46) [Social Justice Standards: The Teaching Tolerance Anti-Bias Framework, Teaching Tolerance, A Project of the Southern Poverty Law Center, 2018.](#)

.01 Purpose.

This chapter sets the standards that MSDE uses to issue an approval document to an entity that is responsible for governing and operating an educator preparation program, either traditional or alternative, for the training of educators in the knowledge, skills, and disposition required to understand and teach the Maryland Curriculum Frameworks as licensed educators in the State.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Accreditation", also referred to as "national accreditation", means a teacher education program has met standards set by a national accrediting agency recognized by the Department and the Commission.

(2) "Action research" means a deliberate, solution-oriented investigation to enhance student achievement that is conducted by the teacher candidate, under the guidance of a mentor teacher and clinical faculty.

(3) "Alternative teacher preparation program" means a sequence of courses established by a county board and approved by the State Superintendent that leads to a participant receiving a resident teacher certificate issued by the Department and includes teaching assignments with supervision and mentoring by a qualified teacher.

(4) "Approval" means a program has met all requirements set by the Department.

(5) "Approval with conditions" means a program has met some, but not all, requirements set by the Department and may operate under certain circumstances.

(6) "Candidate" means an individual enrolled in an educator preparation program who is preparing for or serving in a position as an educator in schools that educate students in preschool through grade twelve.

(7) "Clinical experience" means guided, hands-on, practical applications and demonstrations of a candidate's professional knowledge and the application of theory through collaborative and facilitated learning, including in the practicum and in field-based assignments, tasks, activities, and assessments across a variety of settings.

(8) "Clinical mentor" means a highly competent teacher, trained and selected by the partner school, who will work to instill in the participant the skills, attitudes, values, and knowledge necessary for the next generation of teachers.

(9) "Clinical supervisor" means an individual employed by the education preparation provider who oversees a candidate, is trained or experienced in the field in which the individual is supervising, and is trained to work with and provide feedback to candidates.

(10) "Commission" means the Maryland Higher Education Commission.

(11) "Completer" means the candidate has met exit requirements outlined in Regulation .08E of this chapter.

(12) "Department" means the Maryland State Department of Education.

(13) "Educator preparation program (program)" means either a traditional or alternative Maryland-approved sequence of courses and experiences required to train candidates to become licensed educators in a specific area.

(14) "Educator preparation provider (provider)" means an accredited college, university, or other post-secondary institution, public or private educational association, local school system, corporation, or institution approved to operate traditional or alternative educator training programs in Maryland.

(15) "Entrance" means matriculation into a program.

(16) "Exit" means completion of a program.

(17) "Focused revisit" means the subsequent review by the Department of a program that holds the status of approved with conditions or probation.

(18) "Institution of higher education" means a place of postsecondary education that generally limits enrollment to graduates of secondary schools, and awards degrees at either the associate, baccalaureate, or graduate level.

(19) "Interstate Certification Compact (ICC)" means a legal agreement with other states to facilitate the certification of out-of-State teachers and other professional educational personnel as authorized by Education Article, Title 6, Subtitle 6, Annotated Code of Maryland, or as otherwise provided by law.

(20) "Local school system (LSS)" means a Maryland public local education agency, a State-operated school, or a nonpublic school.

(21) "Maryland Teacher-Principal Evaluation" means an assessment framework for the performance of teachers, administered annually by the local school system, a State-operated school, or a nonpublic school, and recommended by the State.

(22) "Mentor teacher" means a highly competent educator, trained and selected by the partner school, who will work to instill in the participant the skills, attitudes, values, and knowledge necessary for the next generation of teachers.

(23) "Partner school" means a local school system, nonpublic school, or nonpublic special education school that has a written partnership agreement with an institution of higher education or alternative teacher preparation program to provide a teacher training

practicum for participants enrolled in a teacher preparation program at the institution of higher education or alternative teacher preparation program.

(24) “Practicum” means the clinical experiences in which candidates have an increased teaching responsibility under the guidance of a mentor teacher.

(25) “Probation” means a program has seriously failed to meet program requirements or has demonstrated a pattern of noncompliance.

(26) “Professional development” means a variety of specialized training, formal education, or advanced learning intended to help administrators, teachers, and other educators improve their professional knowledge, competence, skill, and effectiveness.

(27) “Traditional program” means a sequence of courses for educator preparation that:

(a) Is offered by a college or university leading to a degree and that includes:

(i) General education and content coursework;

(ii) Professional coursework;

(iii) Clinical experiences; and

(iv) Demonstration of standards and competencies required to prepare educators for teaching students in the classroom environment; and

(b) On completion, makes candidates eligible for licensure in Maryland.

.03 Incorporation by Reference.

In this chapter, the following documents related to national standards are incorporated by reference:

A. Administrative or Supervisory Areas.

(1) *Professional Standards for Educational Leaders (PSEL), National Policy Board for Educational Administration (NPBEA), 2015.*

(2) *Program Recognition Standards: District Level, National Educational Leadership Preparation (NELP), 2018.*

(3) *ISTE Standards for Educational Leaders, International Society for Technology in Education (ISTE), 2018.*

B. Early Childhood/Elementary Areas.

(1) *Ensuring Quality in Early Childhood Education Professional Preparation Programs: NAEYC’s Early Childhood Higher Education Accreditation Standards, 2021.*

(2) *CAEP 2018 K-6 Elementary Teacher Preparation Standards, Council for the Accreditation of Educator Preparation (CAEP), 2018.*

C. English.

(1) *National Council of Teachers of English (NCTE) Standards for the Initial Preparation of Teachers of English Language Arts 7–12, 2021.*

(2) *Maryland College and Career Ready (MCCR) Standards for English Language Arts/Literacy, 2014.*

D. Mathematics.

(1) *Standards for Mathematical Practice, Common Core State Standards Initiative, 2010.*

(2) *Standards for Mathematics Teacher Preparation, National Council of Teachers of Math (NCTM), 2020.*

E. Middle School Areas. *Middle Level Teacher Preparation Standards with Rubrics and Supporting Explanations, Association for Middle Level Education (AMLE), 2022.*

F. Science.

(1) *Standards for Science Teacher Preparation, National Science Teachers Association (NSTA), 2020.*

(2) *Disciplinary Core Ideas (DCI) Arrangements of the Next Generation Science Standards, Next Generation Science Standards (NGSS), 2017.*

G. Special Education.

(1) *Initial Practice-Based Professional Preparation Standards for Special Educators, Council for Exceptional Children (CEC), 2020.*

(2) *Initial Practice-Based Standards for Early Interventionists/Early Childhood Special Educators, Council for Exceptional Children (CEC), 2020.*

(3) *Knowledge and Practice Standards for Teachers of Reading, International Dyslexia Association (IDA), 2018.*

H. Secondary Areas.

(1) *Standards for School-Based Agricultural Education Teacher Preparation Programs, American Association for Agricultural Education (AAAE), 2017.*

(2) *Business Teacher Education Curriculum Guide and Program Standards, National Business Education Association (NBEA), 2013.*

(3) *Standards for Computer Science Teachers, Computer Science Teachers Association (CSTA), 2020.*

(4) *Standards for Technological and Engineering Literacy: The Role of Technology and Engineering in STEM Education, International Technology and Engineering Educators Association (ITEEA), 2021.*

(5) *National Standards for Teachers of Family And Consumer Sciences, National Association of State Administrators of Family and Consumer Sciences (NASAFACS), 2018.*

(6) *National Core Arts Standards: Theatre, National Coalition for Core Arts Standards, 2014.*

(7) *National Standards for the Preparation of Social Studies Teachers, National Council for Social Studies (NCSS), 2017.*

(8) *Handbook, National Association of Schools of Theatre (NAST), 2022–2023.*

I. Specialist Areas.

(1) *NAGC — CEC Teacher Preparation Standards in Gifted and Talented Education, National Association for Gifted Children (NAGC) — Gifted and Talented Specialist: Council for Exceptional Children (CEC); The Association for the Gifted (TAG), 2013.*

(2) *Introduction to the 2016 CACREP Standards, Council for Accreditation of Counseling & Related Educational Programs (CACREP), 2016.*

(3) *ASCA Standards, American School Counselor Association (ASCA), 2019.*

(4) *Standards Framework for Learners, American Association of School Librarians (AASL), 2018.*

(5) *Standards for Accreditation of Master’s Programs in Library and Information Studies, Adopted by the Council of the American Library Association (ALA), 2015.*

(6) *Standards for the Preparation of Literacy Professionals, International Literacy Association (ILA) Standards for the Preparation of Literacy Professional, 2017.*

(7) *Standards for Graduate Preparation of School Psychologists, National Association of School Psychologists (NASP), 2010.*

(8) *Standards for School Social Work Services, National Association of Social Workers (NASW), 2012.*

J. *Specialty Areas (PreK—12).*

(1) *ACTFL/CAEP Program Standards for the Preparation of Foreign Language Teachers, American Council on the Teaching of Foreign Languages (ACTFL)/ Council for the Accreditation of Educator Preparation (CAEP), 2013.*

(2) *Standards for Learning American Sign Language: A Project of the American Sign Language Teachers Association, American Sign Language Teachers Association (ASLTA), 2018.*

(3) *Standards for Art Teacher Preparation, National Art Education Association (NAEA), 2009.*

(4) *National Association of Schools of Music (NASM), Handbook 2022—2023.*

(5) *National Core Arts Standards: Dance, National Coalition for Core Arts Standards, 2014.*

(6) *National Core Arts Standards: Music, National Coalition for Core Arts Standards, 2014.*

(7) *National Core Arts Standards: Visual Arts, National Coalition for Core Arts Standards, 2014.*

(8) *SOPHE 2019 Health Education Teacher Preparation Standards, Society for Public Health Education (SOPHE), 2019.*

(9) *National Standards for Initial Physical Education Teacher Education, Society of Health and Physical Educators (SHAPE), 2018.*

(10) *Standards for Initial TESOL Pre-K—12 Teacher Preparation Programs, Teaching English to Speakers of Other Languages (TESOL), 2018.*

(11) *WIDA's English Language Development Standards, Kindergarten—Grade 12, WIDA, 2020.*

K. *General Teaching.*

(1) *Standards for Educators, International Society for Technology in Education (ISTE), 2017.*

(2) *Model Core Teaching Standards and Learning Progressions for Teachers 1.0, Interstate Teacher Assessment and Support Consortium (InTASC), 2013.*

(3) *Model Code of Ethics for Educators (MCEE), National Association of State Directors of Teacher Education and Certification, 2021.*

(4) *Social Justice Standards: The Teaching Tolerance Anti-Bias Framework, Teaching Tolerance, A Project of the Southern Poverty Law Center, 2018.*

.04 State Consent to Offer Programs.

A. *An individual, public or private educational association, corporation, or institution of higher education may not offer an educator preparation program without obtaining the permission of the Commission and the Department by meeting the requirements of this chapter.*

B. *The Department may allow a provider to operate an educator preparation program if:*

(1) *The Commission has granted a Maryland institution preparing educators approval to operate in Maryland as applicable; and*

(2) *The provider obtains and continues to hold accreditation from a national accreditation organization recognized by the Department and the Commission, or meets the approval requirements as outlined in this chapter.*

.05 National Accreditation.

A. *In this regulation, "national accreditation" means teacher education accreditation by an accrediting agency recognized by the Department and the Commission.*

B. *A provider does not need to meet State approval standards if it holds and maintains accreditation from a national accrediting agency recognized by the Department and the Commission.*

C. *A provider shall notify the Department when it applies to a national accreditation organization recognized by the Department and the Commission.*

D. *A provider shall operate its program in a manner that is consistent with the requirements of the national accrediting agency.*

E. *A provider shall submit to the Department proof of accreditation with supporting documentation within 30 calendar days after receiving it.*

F. *A provider shall notify the Department within 15 calendar days of any change in a program's accreditation status.*

G. *Programs that have chosen national accreditation may be reviewed by their accrediting organization at the request of the Department.*

H. *The Department may investigate complaints regarding any aspect of a program separate from any review conducted by the national accrediting agency.*

I. *A provider that holds national accreditation shall inform the Department in writing at least 90 calendar days before a program stops operating and provide an exit plan for current students that includes notification to those students.*

J. *A provider of a program that holds national accreditation shall submit reporting requirements outlined in Regulation .10A(5) of this chapter.*

K. *The Department shall pay:*

(1) *Any fee that a national accrediting agency charges an institution of higher education in connection with the accreditation process;*

(2) *Any training fee that a national accrediting agency charges a State representative who serves with a review team of an accrediting agency in conjunction with an accreditation visit to an institution of higher education in the State; and*

(3) *One-half of the expenses incurred by an institution of higher education in connection with the accreditation visit of a review team of a national accrediting agency.*

.06 Application for State Approval.

A. *Application for State Approval for Traditional and Alternative Programs.*

(1) *A provider shall submit an application for new program approval to the Department that includes the following:*

(a) *A description of the program and other administrative information, including the plan for implementing Department-mandated program components as defined in Regulation .07 of this chapter;*

(b) *A plan to recruit racially and ethnically diverse candidates; and*

(c) Documentation that the program is aligned to national content standards, or documentation of the process required in Regulation .07C when national content standards are not available, including:

- (i) A needs assessment demonstrating the demand for program completers in the employment market and demand by potential candidates, which may be met by documentation provided to the Commission;
- (ii) The curriculum for the program and a course sequence chart, including syllabi for any new courses;
- (iii) Descriptions of the expected outcomes of the programs and how those outcomes will be assessed;
- (iv) Key assessments in the program, using rubrics aligned to national content standards and Maryland-approved PreK—12 competencies;
- (v) Vitae for all faculty administering or delivering instruction in the program; and
- (vi) Descriptions of materials, media, and resources available for the program, and how technology is integrated into the curriculum or program.

(2) A provider shall notify the Department not later than 6 months before applying for State approval.

B. The Department shall issue a letter of approval to the provider to begin operation of a program or programs when the provider has met the requirements of this chapter.

C. The Department shall include the following in the approval letter:

- (1) Name of the provider;
- (2) Location of the provider;
- (3) List of programs leading to certification;
- (4) Description of degree or degrees, and certificates awarded on completion of the program; and
- (5) Length of approval.

D. A provider shall operate its program in a manner that is consistent with the specifications in its approval letter and the requirements of this chapter.

E. If a provider plans a change in operation that is inconsistent with the specifications in its approval letter, the provider shall notify the Department in writing not later than 6 months before the intended change and include a letter from the Commission indicating approval of the change, if required by the Commission.

F. A provider may not implement a change in the operation of a program until the Department has been notified and has determined whether a change to the approval letter is required.

G. The Department may not approve a change in an approval letter under any of the following circumstances:

- (1) The program status is approval with conditions, unless the provider provides sufficient evidence that the change is necessary to meet all approval requirements;
- (2) The program is on probation;
- (3) The program has not filed its annual report with the Department;
- (4) The Department is investigating a written complaint alleging that the provider's program is in violation of one or more regulations under this chapter, unless the change is necessary to bring the program into compliance with this chapter; or
- (5) The Department is implementing procedures and sanctions as specified in Regulation .11 of this chapter.

H. The Department shall notify a provider that a requested change may not be implemented in writing within 30 days of the date of the written request.

I. A provider shall inform the Department in writing not later than 90 calendar days before a program stops operating and provide an exit plan for current students that includes notification to those students.

J. The approval letter is void if:

- (1) The provider stops operating a program; or
- (2) The State Superintendent issues a final order requiring the program to stop operations.

.07 State Program Approval Process.

A. Requirements for Traditional and Alternative Programs.

(1) A provider may seek approval for a new program, or a new specialization in a currently operating program area, if the documentation submitted contains sufficient justification to warrant the program or new specialization, and has been approved by the Commission.

(2) Where a provider seeks first-time approval for a program, the Department may conduct annual monitoring and a full review of the program or programs within the first 2 years of operation and may also conduct an on-site review if considered necessary by the Department to confirm information in the application.

(3) The Department shall approve or reject the proposal for a new program and notify representatives of the provider, in writing, of the decision.

(4) A new program may not admit candidates to the program until the Department has provided approval.

B. Special Requirements for Alternative Programs.

(1) In addition to meeting the requirements found in §A of this regulation, a provider of an alternative program shall provide at least 4 weeks of professional development before the candidate assumes full responsibility of the classroom.

(2) The provider shall ensure this professional development includes, but is not limited to, pre-employment training, initial coursework, pedagogy, and pre-practicum experiences.

C. Program Approval Process Where No National Content Standards Are Available.

(1) As part of the approval process for proposed programs for which there are no national content standards, the Department shall review the program application, and may also conduct an on-site review if considered necessary by the Department to confirm information in the application.

(2) A program approved under this section shall complete all requirements in §A to receive program approval.

(3) At least 6 months before requesting program approval, a provider shall notify the Department of its intent to initiate the review process for a program for which there are no national content standards.

- (4) *At least 6 months before the approval is requested, the provider shall submit the application for approval to the Department.*
- (5) *The provider shall ensure this application includes:*
- (a) *A description of the proposed program;*
 - (b) *A detailed description and outline of proposed program content and coursework; and*
 - (c) *Identification of national content standards most closely related and relevant to the proposed program.*

.08 State Program Approval Requirements.

A. Entry Requirements for Teacher Preparation Programs.

(1) *A provider of a traditional program shall require candidates to have a grade point average (GPA) of at least 3.0 on a 4.0 scale during the most recent 2 years of the candidate's post-secondary education or demonstrate mastery of general knowledge by providing evidence of a qualifying score, as established by the State Superintendent of Schools and as approved by the State Board of Education (SBOE), on a basic skills assessment.*

(2) *A provider of an alternative program shall require candidates to submit:*

(a) *A GPA of at least 3.0 on a 4.0 scale at the post-secondary level, or demonstrate mastery of general knowledge by providing evidence of a qualifying score, as established by the State Superintendent of Schools and as approved by the SBOE, on a basic skills assessment; and*

(b) *Evidence of one of the following:*

(i) *A conferred bachelor's degree or higher with a major related to the program licensure area;*

(ii) *A conferred bachelor's degree or higher with a minimum of 24 semester hours of credit related to the licensure area; or*

(iii) *A conferred bachelor's degree or higher and evidence of a qualifying score on an approved content assessment, as established by the State Superintendent of Schools and as approved by the SBOE.*

B. Waiver of Entry Requirements.

(1) *A provider of a program may waive the entrance requirement for up to 10 percent of the candidates admitted in an annual cohort.*

(2) *A provider of a program shall implement strategies to ensure that candidates admitted under a waiver receive assistance to successfully demonstrate the required standards and competencies and meet requirements for licensure on exit from the program.*

C. Standards and Competencies.

(1) *A provider shall ensure that its teacher preparation programs provide the following for all candidates:*

(a) *Instruction and experiences in the core academic subjects that the teacher will be teaching, aligned with Maryland-recognized national content and pedagogy standards listed under Regulation .03A of this chapter;*

(b) *Instruction and experiences aligned with Department-approved competencies under Regulations .12—.15 of this chapter;*

(c) *Instruction in the Department-approved Model Code of Ethics for Educators;*

(d) *Instruction in teaching in high poverty, culturally diverse, and linguistically diverse schools under Regulation .15 of this chapter;*

and

(e) *Instruction in research-based literacy instruction aligned to the science of reading for the grade level the individual will be teaching.*

(2) *A provider of a teacher preparation program leading to licensure in early childhood education, elementary education, English as a Second Language, and special education shall:*

(a) *Provide coursework demonstrating coverage of research-based literacy instruction aligned to the science of reading including phonemic awareness, phonics, vocabulary, fluency, and comprehension;*

(b) *Use high-quality curricula and materials that accurately detail the principles of scientifically based reading practices;*

(c) *Provide opportunities for candidates to demonstrate mastery of reading instruction through in-class assignments, tests, and instructional practice; and*

(d) *Prepare candidates to interpret reading assessment data to identify students with reading difficulties and inform instruction.*

(3) *A provider shall ensure that programs preparing candidates for licensure in early childhood and elementary education provide content instruction in each of the following:*

(a) *English language arts;*

(b) *Social studies;*

(c) *Math; and*

(d) *Science.*

(4) *Programs for Specialists. The Department shall approve specialists programs according to the national standards listed in Regulation .03A of this chapter.*

(5) *Programs for Administrators.*

(a) *The Department shall approve administrator programs according to the national standards listed in Regulation .03A of this chapter.*

(b) *A provider of a program that offers courses in school administration shall:*

(i) *Develop a method for evaluating the potential of candidates to be effective school leaders;*

(ii) *Develop a curriculum to enable candidates to organize and manage both schools and highly skilled professionals in a professional work environment, and achieve effective peer observations and effective evaluations of other personnel;*

(iii) *Include clinical experiences and assessments that measure competencies established in the program curriculum; and*

(iv) *Include instruction in research-based literacy instruction aligned to the science of reading.*

D. Clinical Experiences.

(1) *Each participant in an undergraduate, graduate, or alternative teacher preparation program shall complete a teacher training practicum as a requirement for program completion.*

(2) *A provider shall ensure that a teacher training program incorporates classroom observations in which the candidate is observed in different school settings at the beginning of the program to assist in determining if the candidate has the aptitude and temperament for teaching.*

- (3) A teacher training practicum may be completed consecutively or over the course of the program.
- (4) Before July 1, 2025, a provider shall ensure that a teacher preparation program has a required practicum of a minimum of 100 days.
- (5) Minimum Required Practicum.

(a) Beginning on July 1, 2025, a provider shall ensure that:

- (i) An undergraduate teacher preparation program has a required practicum equivalent to a full school year;
- (ii) A graduate teacher preparation program has a required practicum of a minimum of 100 days; and
- (iii) An alternative teacher preparation program has a required practicum equivalent to a full school year.

(b) Exception. Where an alternative teacher preparation program operating in Maryland on or before July 1, 2021, provides effective and diverse teachers in schools and local school systems, as approved by the State Superintendent, and has high rates of teacher vacancies, teacher turnover, and new teachers relative to other public schools in Maryland, a provider shall ensure that this program has a required practicum of a minimum of 100 days.

(6) A provider shall ensure collaboration with mentor teachers of a partner school to evaluate participants in a teacher training practicum and ensure each participant demonstrates the competencies required of licensed teachers.

(7) Special Requirements for Alternative Teacher Preparation Programs. A provider shall ensure that a teacher training practicum in an alternative teacher preparation program includes, at a minimum, the following content:

- (a) Preparing lesson plans;
- (b) Teaching;
- (c) Debriefing;
- (d) Observation of a class of students to which the participant is assigned as a student teacher; and
- (e) 40 hours of teaching during class periods.

(8) A provider shall ensure that a program leading to a licensure in an area of teaching includes a practicum experience in a partner school and:

(a) Is located in a Maryland public school, a nonpublic school, or an out-of-State school with the permission of the State Superintendent;

(b) Is aligned with program curricula that encompass the area, subject, or category of licensure being sought by candidates, including opportunities to provide reading instruction for those candidates enrolled in early childhood, elementary, special education, and ESOL programs;

(c) Provides candidates on-site supervision by a mentor teacher and ongoing support by a clinical supervisor from the provider, including:

- (i) Documented observations;
- (ii) Collaboration between clinical supervisors and mentor teachers to evaluate candidates for demonstration of required competencies;
- (iii) Observations and evaluations of candidates, aligned to a Department-approved educator evaluation system; and
- (iv) Feedback, placement, remediation, or supports, informed by candidate evaluation; and

(d) Ensures candidates are responsible for the instruction and classroom management of a roster of students for a minimum of 150 hours during the practicum.

(9) A provider shall ensure that a program for administrators includes supervised clinical experience totaling a minimum of 240 hours distributed within the program to include observations and evaluations of candidates aligned to a Department-approved administrator evaluation system.

(10) A provider shall ensure that a program for specialists includes a supervised clinical experience in the specialty area being pursued.

E. Exit Requirements.

(1) A provider shall establish exit requirements for programs that:

(a) Demonstrate successful completion of required coursework that is based on Department-recognized national content standards and Department-approved competencies;

(b) Demonstrate successful completion of the clinical experience outlined in Regulation .08D of this chapter; and

(c) Beginning on July 1, 2025, obtain a qualifying score on a nationally recognized and nationally scored portfolio-based assessment of teaching ability, as established by the State Superintendent of Schools and as approved by the State Board of Education, in teaching areas only.

(2) Candidates who complete an approved program in the State who passed an approved portfolio-based assessment will not be required to take the assessment more than one time.

F. Credit Requirements.

(1) A provider shall ensure that a program leading to a bachelor's degree is a 4-year program and award 120 credits, unless otherwise permitted by law.

(2) A provider may expand the program by no more than 12 semester hours of credit or an additional semester only with the permission of the Department and the Commission.

.09 Clinical Experience Placements.

A. A partner school and a provider shall establish a teacher training practicum through a written partnership agreement, as follows:

(1) The provider of a program shall prioritize selecting partner schools within its same community;

(2) The provider of a program and a partner school shall seek to provide teacher training placements in a variety of school environments with diverse student populations that provide participants with the same kind of experiences as teachers employed in the State; and

(3) The instructional program and work organization of a partner school located in a local school system shall reflect the career ladder once the Accountability and Implementation Board determines that the career ladder system is well established throughout the State.

B. A clinical mentor teacher shall:

- (1) Be a highly competent teacher demonstrated by evidence of impacting student achievement;

- (2) Be trained and selected by the partner school;
- (3) Hold a professional Maryland educator license;
- (4) Have the skills and knowledge needed to mentor teacher training practicum participants and to instill the skills, attitudes, values, and knowledge necessary for the next generation of teachers;
- (5) Provide opportunities for teacher training practicum participants in guided, hands-on, practical applications and demonstrations of a candidate's professional knowledge while applying educational theory through collaborative and facilitated learning tasks, activities, and assessments;
- (6) Have teaching and release time per the implementation of the county board approved career ladder to mentor candidates and lead workshops and demonstrations at the school level;
- (7) Collaborate with the educator preparation program to evaluate participants in a teacher training practicum to ensure each participant demonstrates the competencies required of certified teachers; and
- (8) Be selected using the following criteria:
 - (a) From the career ladder system, as applicable, when the Accountability and Implementation Board determines that the career ladder system is well established throughout the State;
 - (b) Until the Accountability and Implementation Board makes a determination that the career ladder is well established, meet the requirements of §B(1)—(7) of this regulation; and
 - (c) A partner school may select a clinical mentor who is not on the career ladder if the partner school can demonstrate the need to justify the selection.

C. Program Collaboration with Clinical Experience Placements.

- (1) The provider of the program shall collaborate with the partner school to provide the mentor teacher:
 - (a) Initial training on best practices in coaching, mentoring, and reflective strategies; and
 - (b) Additional professional development to support mentor teachers.
- (2) The provider of the program shall collaborate with mentor teachers to ensure teacher candidates demonstrate the teacher competencies established in Regulations .12—.15 of this chapter.

D. Partner School Requirements.

- (1) A partner school shall:
 - (a) Assist in finding teaching training practicum placements, to ensure:
 - (i) A well-rounded clinical experience based on student population and geographic location;
 - (ii) Exposure to distinguished instructional practices; and
 - (iii) Placement with a mentor teacher who meets the requirements outlined in §B of this regulation, and is professionally licensed in the area in which the candidate is placed; and
 - (b) Actively collaborate with programs to ensure mentoring and growth of teacher candidates.
- (2) Compensation of Mentor Teachers.
 - (a) Partner schools shall compensate mentor teachers who supervise participants in a teacher training practicum.
 - (b) When the career ladder system is well established throughout the State, as determined by the Accountability and Implementation Board, the compensation of mentor teachers will be according to the career ladder system.

E. Action Research.

- (1) A provider shall ensure that all programs require teacher candidates to conduct action research during the practicum.
- (2) Candidates shall present findings to the partner school and program.
- (3) Candidates shall ensure these findings include the ongoing cycle of problem identification, data collection, reflection, analysis, and lessons learned for the next cycle.

.10 State Program Reporting.

A. Compliance with Program Requirements.

- (1) A provider shall provide evidence of adherence to program requirements as outlined in this regulation.
- (2) If a provider submits annual reporting to a national accreditation agency recognized by the Department and the Commission, the provider shall submit a copy of the annual report to the Department within 30 calendar days.
- (3) A provider shall submit data and annual reports to the Department demonstrating each program's compliance with requirements.
- (4) A provider shall ensure the annual reports include documentation of compliance with the following measures:
 - (a) Entry requirements as stated in Regulation .08A of this chapter;
 - (b) Clinical experience requirements as stated in Regulation .08D of this chapter;
 - (c) Standards and competencies requirements as stated in Regulation .08C of this chapter;
 - (d) Exit requirements as stated in Regulation .08E of this chapter, including candidate passing rates on performance assessments, as well as rate of program completion, and attrition data;
 - (e) Candidate evaluation requirements as stated in Regulation .08D(8)(c) of this chapter, including documentation of evaluation processes and remediation policies as defined by the program; and
 - (f) The process by which the provider uses data to continuously improve the program, including, but not limited to, the recruitment and support of a racially and ethnically diverse pool of candidates.
- (5) A provider shall compile and report data to the Department for each graduating cohort at the individual level, including race, ethnicity, and gender, for the most recent 5 years of program cohorts, on a selection of Department-identified metrics that may include, at a minimum:
 - (a) Program completion rates, including number and demographics of completers, non-completers, and degrees granted;
 - (b) Placement in partner schools by subject area, grade level, LSS employer, and school;
 - (c) Performance, including passing rates on Department-approved performance, content, and basic skills assessments;
 - (d) Enrollment data, including candidate residence, and past and projected enrollment in each program;

- (e) *Employment of graduates/completers;*
- (f) *Retention of program completers through the first 5 years of employment; and*
- (g) *Candidate satisfaction survey.*

B. The Department will distribute to providers a copy of the Maryland Curriculum Frameworks for prekindergarten through 12th grade on an annual basis to ensure content, composition, and expectations of teachers are current.

.11 State Program Renewal, Oversight, and Revocation.

A. Program Review.

- (1) *The Department shall review programs every 5 years.*
- (2) *The Department shall approve programs that meet its requirements and standards for 5 years.*
- (3) *Programs that fail to meet all the requirements and standards addressed in this chapter may be approved with conditions or placed on probation.*
- (4) *Program Extensions.*
 - (a) *A provider may request an extension of the Department's 5-year review.*
 - (b) *A provider shall submit this request in writing at least 180 calendar days before the end of the program's 5-year approval.*
 - (c) *The Department may grant up to a 1-year extension based on documentation submitted to justify the extension.*
- (5) *The Department may monitor or conduct an interim review of a program at any time.*
 - (a) *Where this interim review reveals that a program has seriously failed to meet the standards and benchmarks or reporting or compliance requirements, or has demonstrated a pattern of noncompliance, the program may be placed on probation under §C of this regulation.*
 - (b) *If after the 1-year probation a program fails to make satisfactory progress toward meeting program standards, reporting requirements, or compliance requirements, the Department may revoke its approval under §D of this regulation.*
- (6) *Beginning in the 2025—2026 school year, each approved educator preparation program leading to certification in early childhood education, elementary education, special education, and ESOL, shall post on its website information describing its program to prepare teachers to teach reading using evidence-based practices in literacy programming and instruction aligned to the science of reading.*

B. Approval with Conditions.

- (1) *If the approved program fails to meet all of the standards and competencies, reporting, or compliance requirements, it may be approved with conditions for a period of 2 years.*
- (2) *The Department shall conduct a focused review of a program approved with conditions within 2 years of the original review.*
- (3) *The Department may extend a program's approval with conditions for good cause beyond the original 24-month period.*
- (4) *Programs may continue to accept candidates for entry while approved with conditions.*
- (5) *Approval with conditions shall last 2 years unless, through its annual reports, the program supplies sufficient evidence to meet program approval requirements, after which it may be removed from approval with conditions after 1 year, granted approval, and returned to a 5-year review cycle.*
- (6) *A program approved with conditions shall continue to provide all annual reporting.*
- (7) *If after 2 years a program has not made satisfactory progress toward meeting Department requirements and national standards, reporting requirements, or compliance requirements, the program may be placed on probation or revoked.*

C. Probation.

- (1) *Programs that have seriously failed to meet the standards and benchmarks or reporting or compliance requirements, or have demonstrated a pattern of noncompliance, may be placed on probation.*
- (2) *Programs that do not submit data or required reports to the Department, or who lose national accreditation status by revocation or by expiration, may be placed on probation status or may face immediate revocation of Department approval.*
- (3) *The Department may conduct a full review within 1 year of the last focused revisit for a program on probation unless, through annual reporting requirements, the program supplies sufficient evidence to meet program approval requirements.*
- (4) *Programs may not accept candidates for entry while on probation.*
- (5) *A program on probation shall continue to provide all annual reporting to the Department.*
- (6) *Within 30 calendar days of the notification of probation, the provider shall notify each candidate individually in writing of the probation of the program, explain what probation means, and provide documentation of the notification to the Department.*
- (7) *The Department shall monitor program progress towards meeting the Department requirements and national standards for the program throughout the probationary period, including review of required reports and monitoring visits as considered necessary.*
- (8) *If a program supplies evidence of meeting all program requirements, the Department may remove it from probation.*
- (9) *The Department may request an annual follow-up report with an annual re-visit for institutions removed from probation.*
- (10) *If after the 1-year probation a program has not made satisfactory progress toward meeting program standards, reporting requirements, or compliance requirements, the Department may revoke its approval.*

D. Revocation.

- (1) *The Department may revoke its approval if a program fails to meet the standards, reporting requirements, or compliance requirements set forth by this chapter:*
- (2) *The Department shall notify the provider in writing of a decision to revoke approval.*
- (3) *On provision of the notification, the provider shall stop operating the revoked program.*
- (4) *A revoked program may not recruit or accept new candidates.*
- (5) *Within 30 calendar days of the notification of revocation, the provider shall notify each candidate individually, in writing, of the revocation of program approval, explain what revocation means, and provide documentation of the notification to the Department.*
- (6) *Candidates enrolled in the revoked program who have accumulated enough credits to be on track for program completion within the current academic year may exit.*

(7) A provider shall wait 2 years after revocation of a program before it may apply to the Department for approval of a program that is substantively the same as the one revoked.

E. Appeal.

(1) A provider may request a hearing to challenge the revocation if the provider files a written request with the State Superintendent within 20 calendar days of receipt of the notice of revocation.

(2) The State Superintendent shall promptly refer the case to the Office of Administrative Hearings.

F. Hearing Procedures.

(1) The hearing procedures for appeals referred to the Office of Administrative Hearings are in accordance with the Administrative Procedure Act, State Government Article, §§10-201—10-226, Annotated Code of Maryland, and with COMAR 28.02.

(2) The Office of Administrative Hearings shall prepare an official case record as provided in COMAR 28.02.01.22.

(3) The administrative law judge shall submit in writing to the State Superintendent a proposed decision containing findings of fact, conclusions of law, and recommendations, and distribute a copy of the proposed decision to the parties.

(4) A party objecting to the administrative law judge's proposed decision may file exceptions with the State Superintendent within 15 calendar days from the date of the decision. A party may respond to the exceptions within 15 calendar days of the date of the exceptions.

(5) If exceptions are filed, any party may request an opportunity for oral argument before the State Superintendent before a final decision is made. Each side may present no more than 15 minutes of oral argument before the State Superintendent.

(6) The State Superintendent shall make a final decision in writing containing findings of fact and conclusions of law.

(7) A provider may seek judicial review of a State Superintendent's determination under this regulation as provided by the Administrative Procedure Act, State Government Article, §10-222, Annotated Code of Maryland.

.12 Teacher Preparation Competencies: General Competencies.

A. Purpose.

(1) The general teacher preparation competencies apply to teacher candidates across all content areas and grade levels, to determine readiness to enter the profession.

(2) The teacher candidate shall demonstrate essential knowledge and skills of general competencies that align with current expectations for teacher candidates to exit a program.

B. Required General Competencies. The teacher candidate shall:

(1) Use evidence-based research strategies, learning theories, and methods to help improve student performance;

(2) Use inquiry skills and methods regularly to collect meaningful data and improve the candidate's professional practice;

(3) Incorporate personal reflection, professionals' feedback, best practice, and expert opinion to improve the candidate's professional practice;

(4) Demonstrate that knowledge of the learner's physical, cognitive, emotional, social, and cultural development is the basis of effective teaching of the following students:

(a) Students from different racial, ethnic, and socioeconomic backgrounds;

(b) Students for whom English is not their primary language;

(c) Students with different learning abilities; and

(d) Students with social and emotional needs;

(5) Create, build, and sustain a safe, inclusive learning environment by effectively:

(a) Using trauma-informed instruction and other approaches to meet social and emotional needs;

(b) Implementing restorative practices;

(c) Using active listening, conflict de-escalation to include bullying, and other strategies; and

(d) Managing student behavior;

(6) Apply multiple, valid assessment approaches, both formal and informal, modifying when appropriate, that address a variety of developmental needs, conceptual abilities, curriculum outcomes, and school goals;

(7) Develop action research that advances the candidate's knowledge base, promotes equity, and addresses an academic need;

(8) Collaborate effectively with colleagues, families, school professionals, businesses, and social services agencies to support student development and student achievement;

(9) Apply instructional supports, including a 504 Plan and an individualized education plan, to support a student with exceptionalities by providing developmentally appropriate access to age-level or grade-level instruction, individually and in collaboration with colleagues;

(10) Evaluate student behaviors and unique learning needs in the adaptation of various learning environments, such as physical arrangement, student grouping, instructional intensity, pacing, and embedded assistive technology supports;

(11) Use assistive technologies ranging from low-tech to high-tech devices or equipment, materials, and resources to educate individuals whose exceptionalities interfere with written or verbal communication;

(12) Analyze and use data derived from assessments to develop intervention plans aligned to the specific needs of individual students to remedy learning deficits;

(13) Implement Response to Intervention (RtI), Universal Design for Learning (UDL), and Direct Instruction (DI) to differentiate instruction;

(14) Implement Specially Designed Instruction (SDI) to implement the Individualized Education Program for students with disabilities; and

(15) Effectively use high quality instructional materials (including online) and adapt existing curriculum to make it stronger using standards-aligned tools, including the ability to use digital resources and computer technology.

.13 Teacher Preparation Competencies: Literacy Competencies.

A. Literacy Competencies for Secondary and PreK—12 Teaching Areas. Teacher candidates completing programs that lead to licensure in secondary and PreK—12 content areas shall demonstrate an understanding of the following competencies:

(1) *The Learner and Learning. The teacher candidate shall:*

- (a) Define, describe, explain, and analyze the developmental characteristics of adolescent literary learners, active independent readers, processes of making meaning, and motivation and engagement;
- (b) Interpret, synthesize, and apply learning of active independent readers, processes of making meaning, and motivation and engagement to specific content area instruction;
- (c) Define and distinguish features of diversity and interpret linguistic cultural differences among adolescent learners;
- (d) Examine, evaluate, and apply learning of inclusive content area literacy environment and instruction to close achievement gaps;
- (e) Describe the characteristics of a high quality learning environment; and
- (f) Construct high quality learning environments that support individual and collaborative interaction and engagement.
- (2) Content Knowledge. The teacher candidate shall:
- (a) Describe purposes and opportunities for reading, writing, and communicating within and across content areas and analyze types of new literacies and their uses for acquiring content knowledge and student understandings;
- (b) Use new literacies for acquiring and developing content knowledge and student understanding;
- (c) Identify and select appropriate multi-modal sources and resources for inquiry; and
- (d) Evaluate and use discipline-specific processes of inquiry to engage in collaborative problem solving and critical thinking.
- (3) Assessment and Instruction. The teacher candidate shall:
- (a) Describe guiding principles and practices and examine assessment types, tools, and purposes for content literacy assessment;
- (b) Select or develop content-specific assessment tools to evaluate student performance and the effectiveness of assessment tools for content-specific assessment;
- (c) Identify deficits in reading and develop a plan to address using strategies aligned to the science of reading to support appropriate interventions;
- (d) Examine factors of text complexity and analyze student data to inform and evaluate instructional practice;
- (e) Synthesize multiple data points to evaluate and to refine content area instructional practice;
- (f) Identify professional and literacy standards and curricula for lesson development to plan and evaluate engaging instruction that supports all learners in meeting goals and intended outcomes;
- (g) Use professional and literacy standards and curricula to plan, implement, and evaluate lessons and instructional units of study within content areas;
- (h) Critique effectiveness of instruction and design next steps for students and teachers;
- (i) Examine research and theoretical frameworks and investigate evidence-based multi-modal instructional practices to develop comprehension;
- (j) Use evidence-based multi-modal instructional practices to develop and evaluate comprehension within content areas; and
- (k) Examine research and theoretical frameworks and investigate evidence-based multi-modal instructional practices for general academic and content specific vocabulary use.
- (4) Professional Responsibility. The teacher candidate shall:
- (a) Examine current trends, initiatives, and educational reform efforts as relative to content literacy;
- (b) Explore professional dispositions and engage in critical self-reflection to construct a professional development plan as a content area literacy teacher;
- (c) Identify organizational structures and school-based resources for specific needs; and
- (d) Investigate opportunities for collaboration with families/school/communities and develop leadership capacities through actively participating in school-based opportunities for growth and development.
- B. Literacy Competencies for Early Childhood, Elementary, Special Education, and English to Speakers of Other Languages. Teacher candidates completing programs that lead to licensure in early childhood, elementary, English to speakers of other languages, and special education areas shall demonstrate an understanding of the following:
- (1) Literacy Processes. The teacher candidate shall:
- (a) Identify the component processes involved in reading and writing aligned to the science of reading;
- (b) Apply that knowledge to understand the reading and writing processes of native English speakers and English learners;
- (c) Describe how key components of reading and writing processes develop and what biological, cognitive, linguistic, and sociocultural factors may influence literacy development;
- (d) Identify characteristics that define evidence-based practices in literacy programming and instruction aligned to the science of reading;
- (e) Use evidenced-based criteria aligned to the science of reading to select and organize print and multimedia resources for teaching reading and writing; and
- (f) Use a variety of print and multimedia resources to engage students as readers and writers.
- (2) Literacy Instruction in the Diverse Classroom. The teacher candidate shall:
- (a) Develop in their students the awareness of the sounds made by spoken words;
- (b) Systematically map speech sounds with letters and letter combinations;
- (c) Provide extended practice for reading words to develop fluency;
- (d) Provide opportunities for students to devote energy to the meaning of text to build content vocabulary;
- (e) Develop student understanding of what is being read to them and what they will eventually read themselves;
- (f) Provide instruction focused on the core components of reading that lead to proficient and motivated reading behavior for all students;
- (g) Provide instruction focused on the core components of writing that lead to proficient and motivated writing behavior for all students;
- (h) Design speaking and listening opportunities that lead to more active, equitable, and academically oriented conversations for all students;

- (i) Identify the role of classroom literacy instruction aligned to the science of reading in a multi-tiered system of supports and work with colleagues to provide effective interventions for students who struggle as readers and writers; and
 - (j) Provide literacy instruction that reflects and is responsive to the diversity of the classroom community and promotes all students' cultural competence through inclusive and equitable literacy learning opportunities.
- (3) **Effective Literacy Assessment.** The teacher candidate shall:
- (a) Identify the foci, purposes, and features of literacy assessments and application;
 - (b) Identify and implement a developmentally appropriate reading screener to determine skill gaps;
 - (c) Select or design appropriate diagnostic assessments and use data from those assessments to determine areas of need, provide targeted instruction, collaborate with instructional specialists, monitor progress, and evaluate the effectiveness of literacy instruction; and
 - (d) Use effective techniques for communicating assessment information to a variety of stakeholders.
- (4) **Researched-based literacy instruction aligned to the science of reading, to include:**
- (a) Phonological and phonemic awareness;
 - (b) Phonics and decoding;
 - (c) Fluency;
 - (d) Vocabulary;
 - (e) Comprehension of literary and informational text;
 - (f) Written expression, spelling, and grammar;
 - (g) Assessment and instructional decision-making;
 - (h) Long-term planning aligned with the literacy curriculum, student needs, instructional histories, school/grade level needs;
 - (i) Effective methods for promoting the reciprocal relationship between writing and reading;
 - (j) Strategies that foster connections to students' homes and communities; and
 - (k) Multiple opportunities for incorporating oral language variation.

.14 Teacher Preparation Competencies: Math Competencies.

A. **Math Competencies.** Teacher candidates seeking licensure to provide mathematics instruction shall demonstrate the competencies applicable to the area of licensure (PreK—Grade 3; Grades 1—6; Middle School or High School or both).

B. **Content Knowledge.** The teacher candidate shall:

- (1) Apply mathematics content knowledge for teaching within the candidate's area of licensure;
- (2) Candidates prepared to teach elementary education shall apply content knowledge for each of the four essential topics: Numbers and Operations, Algebraic Thinking, Geometry and Measurement, and Data Analysis and Probability;
- (3) Demonstrate conceptual understanding, proficiency with procedural skills, and the ability to solve real world problems;
- (4) Recognize the coherent progression of mathematical concepts both within an age/range/grade/course and across an age/range/grade/course;
- (5) Use mathematics to model real world problems; and
- (6) Use precise mathematical language.

C. **Pedagogical Skills.** The teacher candidate shall:

- (1) Identify the appropriate sequence of mathematical learning targets for both a unit of study and an individual lesson;
- (2) Construct collaborative and self-directed learning opportunities that reflect active student engagement in learning and a growth mindset;
- (3) Develop strategies for responding to anticipated and present student misconceptions;
- (4) Design rich mathematical tasks that help students develop the conceptual understanding, procedural skills, and the ability to apply the mathematics associated with learning targets;
- (5) Integrate instructional strategies and teaching aides that enhance the learning of mathematics, such as multiple representations, manipulatives, calculators, and other technological aides; and
- (6) Recognize productive struggles and unproductive struggles to promote perseverance and thinking flexibly.

D. The teacher candidate shall use multiple assessment tools and evidence-based instructional strategies to guide the mathematics instructional process.

E. The teacher candidate shall identify the cognitive process, learning theories, and developmental strategies related to the teaching and learning of mathematics.

.15 Teacher Preparation Competencies: Cultural Responsiveness.

A. **Culturally Responsive Teaching.** Teacher candidates seeking licensure shall demonstrate the following competencies:

- (1) Preparation to support culturally, racially, linguistically, and otherwise diverse populations of students through providing culturally responsive instruction to increase academic achievement, critical consciousness, and cultural competence; and
- (2) Required knowledge and skills to include application of competencies that support various racial, ethnic, linguistic, socioeconomic groups through teaching that promotes social justice and equity, including restorative practices and practices to develop racial literacy.

B. **Cultural Competencies.** The teacher candidate shall:

- (1) Identify and apply the elements of culturally responsive teaching, including academic achievement, critical consciousness, and knowledge of self and at least one other culture;
- (2) Identify and assess how issues such as racism, sexism, socioeconomic status, immigration, and gender impact marginalized students, families, and educators on multiple levels by:
 - (a) Acknowledging their own biases and inequitable actions; and
 - (b) Assessing how their own assumptions, values, and biases may impact their responses to students and families and result in inequitable actions and practices, and identify equitable actions and practices;
- (3) Demonstrate respect for students' cultures by:
 - (a) Learning about students' cultural backgrounds;

- (b) Seeking purposeful immersion experiences within groups different from their own;
- (c) Communicating high expectations for students of all identities, including gender, race, ethnicity, language, socioeconomics, and disability;
- (d) Incorporating a variety of culturally responsive materials that represent and support learning for diverse populations of children and families; and
- (e) Differentiating instruction with consideration for cultural, linguistic, and academic diversity;
- (4) Examine curriculum and learning materials for bias and deliver instruction with materials that center the perspectives and lived experiences of historically marginalized people;
- (5) Build a safe and accessible environment, respectful of all individuals, by:
 - (a) Providing strategies to support students with responses to discrimination and negative attitudes associated with cultural or other differences;
 - (b) Creating learning environments that facilitate the active engagement of diverse populations of students; and
 - (c) Co-constructing the values and expectations of the school to incorporate different perspectives, including those of students, families, and colleagues; and
- (6) Build relationships with families and communities by:
 - (a) Incorporating families' perspectives about school culture to create an environment that is inclusive and respects their values, beliefs, and hopes for their children;
 - (b) Providing opportunities for families to be involved in their children's educational experiences by communicating regularly, in multiple ways, and including them in the curriculum;
 - (c) Integrating family and community-based funds of knowledge into teaching and learning; and
 - (d) Providing information regarding school and community resources that are available for students, educators, and families, including multilingual resources reflecting students and families' heritage languages.

MOHAMMED CHOUDHURY
State Superintendent of Schools

Notice of Proposed Action

[23-074-P]

The Professional Standards and Teacher Education Board and the State Board of Education propose to repeal the following existing regulations under existing **Subtitle 12 Certification**:

- (1) Regulations .01—.14 under **COMAR 13A.12.01 General Provisions**;
- (2) Regulations .01—.29 under **COMAR 13A.12.02 Teachers**;
- (3) Regulations .01—.12 under **COMAR 13A.12.03 Specialists**;
- (4) Regulations .01—.16 under **COMAR 13A.12.04 Administrators and Supervisors**;
- (5) Regulations .01—.08 under **COMAR 13A.12.05 Suspensions and Revocations**; and
- (6) Regulations .01—.08 under **COMAR 13A.12.06 Professional Standards and Teacher Education Board**.

Also, at this time, the Professional Standards and Teacher Education Board and the State Board of Education propose to adopt the following new regulations under new **Subtitle 12 Educator Licensure**:

- (1) Regulations .01—.06 under **COMAR 13A.12.01 General Provisions**;
- (2) Regulations .01—.08 under **COMAR 13A.12.02 Teachers**;
- (3) Regulations .01—.05 under **COMAR 13A.12.03 Professional and Technical Education and Specialized Areas for Fine Arts**;
- (4) Regulations .01—.15 under **COMAR 13A.12.04 Specialists**;
- (5) Regulations .01—.15 under **COMAR 13A.12.05 Administrators and Supervisors**;
- (6) Regulations .01—.09 under **COMAR 13A.12.06 Disciplinary Actions and Denials**; and
- (7) Regulations .01—.08 under **COMAR 13A.12.05 Professional Standards and Teacher Education Board**.

This action was considered by the Professional Standards and Teacher Education Board at its meeting on December 1, 2022 and the State Board of Education at its meeting on January 24, 2023.

Statement of Purpose

The purpose of this action is to adopt regulations in accordance with The Blueprint for Maryland's Future and the Teacher Induction, Retention, and Advancement Final Report (2017).

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Alexandra Cambra, Director Program Approval, Division of Educator Certification and Program Approval, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0564, or email to alexandra.cambra@maryland.gov. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Professional Standards and Teacher Education Board during a public meeting to be held on October 05, 2023, at 9:30 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

Subtitle 12 EDUCATOR LICENSURE

13A.12.01 General Provisions

Authority: Education Article, §§2-205, 2-303(g), and 6-127, and 6-701—6-708, 8-3A-03, and Family Law § 10-119.3, Annotated Code of Maryland

.01 Purpose.

Licensure is established to offer assurance to the citizens of this State that professional public educational staff possess the minimum essential knowledge and skills needed to achieve outcomes for public education declared by the State Board of Education, and maintain competent practice through career long-engagement with their content area, research, best practice, and expert opinion.

.02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Accredited nonpublic school" means a nonpublic school accredited by a national organization or regional organization.*
- (2) "Approved nonpublic school" means a nonpublic school approved by a state department of education.*
- (3) "Bilingual Education" means the teaching of academic content in two languages: a native and second language.*
- (4) "Certificate" is the term for an educator credential issued by the Department. The term certificate has been replaced by the word license.*
- (5) "Class" means a period allocated for lessons during a school day.*
- (6) "Conditional license" means a non-renewable license issued while the applicant pursues a pathway to professional licensure.*
- (7) "Content coursework" means coursework completed in academic disciplines as differentiated from pedagogical coursework.*
- (8) "Continuing education units (CEUs)" means credit issued from an accredited International Association for Continuing Education and Training provider or approved by another Maryland State agency for purposes of licensure.*
- (9) "Continuing professional development (CPD) credit" means credit earned through continuing professional development experiences approved by the Department.*
- (10) "Crime against children" means any crime defined in Criminal Law Article, §3-601, Annotated Code of Maryland.*
- (11) "Crime of violence" means any crime as defined in Criminal Law Article, §14-101, Annotated Code of Maryland.*
- (12) "Culturally Responsive Teaching" means pedagogy that recognizes the importance of including students' cultural references in all aspects of learning.*
- (13) "Department" means the Maryland State Department of Education.*
- (14) "Educator" means an individual who holds a license in an area of teaching, Professional and Technical Education, specialized areas for fine arts, specialist, administrator or supervisor.*
- (15) "Effective performance" means professional, full-time experience as a specialist, administrator, or supervisor in a public school system, approved nonpublic school, or accredited nonpublic school for which the annual overall evaluation rating is at least effective or equivalent.*
- (16) "Effective teaching experience" means professional, full-time experience as a teacher in a public school, approved nonpublic school, or accredited nonpublic school for which the annual overall evaluation rating is at least effective or equivalent.*
- (17) "Endorsement" means a credential issued on a license under COMAR 13A.12.01.04C to indicate satisfactory knowledge and skills to perform services in the area(s) specified.*
- (18) "English as a Second Language (ESOL)" means the practice and theory of learning and teaching English to students of which English is not the native language.*
- (19) "English Language Learners (ELL)" means students who come from non-English speaking homes and who are learning English.*
- (20) "Full-time teaching experience" means a period of not less than 9 consecutive months as the responsible teacher in a classroom under an appointment requiring service for 50 percent or more of the school week or the equivalent.*
- (21) "Higher degree" means a degree earned that is higher than a bachelor's degree such as a Ph.D., Ed.D., Ed.S., master's degree, J.D., M.D., D.D.M., D.D.S., or L.L.M.*
- (22) "Historic Professional Certificate" means a previously issued certificate or area of certification that no longer exists.*
- (23) "Historic Professional License" means a license or area of licensure that no longer exists.*
- (24) "Individual professional development plan (IPDP)" means a plan developed in partnership with a supervisor, if employed, to provide appropriate and relevant professional learning.*
- (25) "Initial license" means the first Maryland professional license issued to an educator.*
- (26) "Internship" means a supervised period of clinical experience offered by an educator preparation program designed to allow pre-service teachers to practice and refine their teaching skills.*
- (27) "Interstate Certification Compact (ICC)" means a legal agreement with other states to facilitate the certification of out-of-State teachers and other professional educational personnel as authorized by Education Article, Title 6, Subtitle 6, Annotated Code of Maryland, or as otherwise provided by law.*
- (28) "License" means an educator credential issued by the Department, which allows the holder to practice the area(s) of licensure noted.*
- (29) "Local school system (LSS)" means a Maryland public school system.*
- (30) "Long-term substitute experience" means full-time, continuous substitute teaching service in the same classroom for not less than 3 months.*
- (31) "Member state" means a state that participates in the Interstate Certification Compact (ICC).*

(32) “Micro-credential” means a digital form of certification indicating the demonstration of competency/mastery in a specific skill or set of skills.

(33) “Montessori school” means a public school that uses Montessori instruction as its primary method of instruction, or is approved by the Department.

(34) “Nonpublic school approved under COMAR 13A.09.09” means a school that is issued a Certificate of Approval by the State Board, excluding the federal government or any State, county, or municipal agency or division of these, to operate an educational program in a nonpublic kindergarten, elementary school, and secondary school.

(35) “Nonpublic school approved under COMAR 13A.09.10” means:

(a) An entity which is responsible for governing and operating a school that provides a Type I, Type II, Type III educational program in a facility licensed by a unit of State government to provide treatment of care, or both; or

(b) Educational programs that provide special education to children in a nonpublic school in accordance with Education Article, §8-406, Annotated Code of Maryland.

(36) “Occupational experience” means experience gained while employed performing in the career area to be taught.

(37) “Pedagogy” means the method and practice of teaching.

(38) “Performance Review Program” means the scheduled review of educator performance and provision of supports to ensure quality of teaching.

(39) “Professional and Technical Education” means areas of study which include skilled trades, applied sciences, modern technologies, and career preparation.

(40) “Professional conference” means a workshop, institute, or seminar of 4 or more hours that contributes to ongoing, sustained, and high-quality professional development.

(41) “Professional development activity” means an activity, approved by the Department, local school system, State Agency, Maryland-approved nonpublic school, or another state department of education, that improves the professional knowledge, competence, skill, or effectiveness of the license holder.

(42) “Professional Development Point (PDP)” means a unit used to renew teacher licenses earned through completion of specific professionally aligned tasks and assignments.

(43) “Professional education coursework” means coursework dealing with the knowledge and process of teaching to prepare to become a teacher, as differentiated from content coursework.

(44) “Professional licensure” means holding a Temporary Professional, Initial Professional, Professional, or Advanced Professional License.

(45) “Reinstatement” means restoration of an expired license.

(46) “Renewal” means the extension of the validity period of an existing license.

(47) “Required grade” means a grade of C or better, pass, or satisfactory.

(48) “Resident Teacher License” means a license issued to a candidate enrolled in an alternative teacher preparation program.

(49) “School” means a public school, an approved nonpublic school, or an accredited nonpublic school.

(50) “Sheltered English instruction” means an instructional approach that engages English Language Learners (ELL) in developing grade-level content-area knowledge, academic skills, and increased English proficiency.

(51) “Specialist” means an individual licensed under COMAR 13A.12.04.

(52) “Teaching endorsement” means a teaching area added to a professional license of an educator who has met the qualifications of COMAR 13A.12.02.02B.

.03 Licensure Requirements of Education Personnel.

A. The regulations in this subtitle are established as licensure standards for personnel educating students in a Maryland local school system, a State-operated school, and a nonpublic school approved under COMAR 13A.09.10.

B. A local school system, State-operated school, and nonpublic school approved under COMAR 13A.09.10 may establish additional requirements as a condition of employment.

C. Personnel Subject to Licensure.

(1) Teachers, specialists, administrators, and supervisors employed in a Maryland local school system, a State-operated school, and a nonpublic school approved under COMAR 13A.09.10 are subject to licensure.

(2) Teachers. A teacher employed in an early childhood, elementary, pre-kindergarten—12 or secondary school program shall hold an appropriate license under COMAR 13A.12.02.

(3) Professional and Technical Education/Specialized Areas for Fine Arts. A Professional and Technical Education teacher or Specialized Area of Fine Arts teacher employed in an early childhood, elementary, pre-kindergarten—12 or secondary school program shall hold an appropriate license under COMAR 13A.12.03.

(4) Specialists. A specialist employed in an early childhood, elementary, pre-kindergarten—12 or secondary school program shall hold an appropriate license under COMAR 13A.12.04 or a license in certain areas as otherwise provided in State law.

(5) Administrators and Supervisors. Administrators and supervisors who have direct contact with students, who have responsibility for curriculum development, or who have responsibility for supervision of instruction shall meet the requirements for a professional license under COMAR 13A.12.05.

.04 Issuance and Types of Licenses.

A. Application Procedure.

(1) To obtain licensure in a specific area, an applicant, or local school system on behalf of the applicant, shall submit an application and documentation as required by the Department.

(2) The Department or its designee shall evaluate the application and documentation and if the applicant satisfies the requirements, the Department shall issue the license.

(3) An applicant shall present transcripts verified to the satisfaction of the Department.

(4) An applicant shall present test scores to the Department in one of the following ways:

- (a) Directly from the testing company;
- (b) By notation on an official transcript;
- (c) By verification from a college or university;
- (d) By verification from a state department of education; or
- (e) With the applicant's original score report or a copy of the score report verified to the satisfaction of the Department.

(5) The Department shall maintain the file of an applicant for licensure who is not eligible for a license for 1 year from the date of the last correspondence, after which time the applicant may reapply.

(6) It is the responsibility of the licensed individual to maintain the validity of the license and to provide the Department with current information including name, email address, mailing address, and phone number.

B. Fee. The fee for the initial issuance and renewal of a license is provided in Education Article, §6-704(b), Annotated Code of Maryland, and the individual seeking issuance or renewal shall pay the Department by money order, certified check, cashier's check, or electronic payment.

C. Types of Educator Licenses.

(1) Conditional License. The conditional license is a nonrenewable license valid for a period not to exceed 5 years issued only for licenses under COMAR 13A.12.02.02 and 13A.12.03.02.

(2) Conditional Special Education License. The conditional special education license is a nonrenewable license valid for a period not to exceed 3 years issued only for licenses under COMAR 13A.12.02.02.

(3) Resident Teacher License. The Resident Teacher license is valid for a period not to exceed 3 years issued only for licenses under COMAR 13A.12.02.02F.

(4) Temporary Professional License. The Temporary Professional License is a nonrenewable license valid for a period not to exceed 2 years and issued only for licenses under COMAR 13A.12.02.02 and 13A.12.03.02.

(5) Initial Professional License. The Initial Professional License is a renewable license valid for a period not to exceed 5 years.

(6) Professional License. The Professional License is a renewable license valid for a period not to exceed 5 years.

(7) Advanced Professional License. The Advanced Professional License is a renewable license valid for a period not to exceed 5 years.

(8) Adjunct Teacher License. The Adjunct Teacher License is a renewable license valid for a period not to exceed 1 year issued only for licenses under COMAR 13A.12.02.02 and 13A.12.03.02.

(9) Montessori Professional License.

(a) The Montessori Professional License is valid for an indefinite period.

(b) The Montessori Professional License may be issued to an individual who teaches students in a Montessori school and meets the eligibility criteria in 13A.12.02.02H.

(c) An individual with a Montessori Professional License may not teach students in a public school that is not a Montessori school unless the individual meets the requirements relating to licensure of public school teachers.

D. A historic Maryland license may not be issued as an initial license.

E. Effective Dates of Licenses.

(1) Issuance of a License. The Department shall issue a license to an applicant with the following effective dates:

(a) If the license was issued from January 1 through June 30, the effective date of the license is January 1; and

(b) If the license was issued from July 1 through December 31, the effective date of the license is July 1.

(2) Multiple Licenses. Educators may hold multiple licenses.

(3) Endorsements.

(a) An individual who meets the qualification for initial licensure may add additional endorsements to the existing license.

(b) The validity period for an endorsement is the same as the initial license.

(c) The Department shall renew the endorsement when the initial license is renewed.

(4) An educator who adds an additional license or endorsement to an existing license is not required to amend the Individualized Professional Development Plan or present additional renewal requirements during the current validity period.

F. Deactivate a License or Teaching Endorsement.

(1) An educator may request, in writing, to deactivate a license or teaching endorsement.

(2) The educator shall meet the current regulatory requirements if the educator wishes to hold that license and/or teaching endorsement in the future.

(3) An educator may not request the deactivation of a license to avoid disciplinary action.

G. Licensure Plan.

(1) A licensure plan may be issued to an applicant who does not meet the qualifications for a license.

(2) A licensure plan is effective for a 5-year period.

(3) If an applicant fails to satisfy the requirements for a professional license within the 5-year period, the applicant shall meet the requirements of the current applicable regulation.

.05 Reinstatement of an Expired Professional License.

A. General.

(1) An educator may not be employed under an expired license.

(2) An educator who holds an expired Maryland Initial Professional, Professional, or Advanced Professional license in a teaching area may reinstate that license if the educator presents the professional development requirements under COMAR 13A.12.02.06.

(3) An educator who holds an expired Maryland Initial Professional, Professional, or Advanced Professional license in an area of professional and technical education or specialized area of fine arts may reinstate that license if the educator presents the professional development requirements under COMAR 13A.12.03.05.

(4) An educator who holds an expired Maryland Initial, Professional or Advanced Professional license in a specialist area may reinstate that license if the educator presents the professional development requirements under COMAR 13A.12.04.15.

(5) An educator who holds an expired Maryland Initial, Professional or Advanced Professional license in an administrator area may reinstate that license if the educator presents the professional development requirements under COMAR 13A.12.05.15.

B. Exemption. An educator holding an expired Maryland Initial Professional, Professional, or Advanced Professional license who presents a valid professional license issued by a member state, may reinstate the Maryland license.

C. Historic Professional Certificate or License.

(1) The Department shall issue an Initial Professional License to an educator who holds an expired Maryland Professional Eligibility Certificate or Standard Professional I Certificate and meets the requirements to reinstate a Maryland license under §§A and B of this regulation.

(2) The Department shall issue a Professional License to an educator who holds an expired Maryland Standard Professional II Certificate and meets the requirements to reinstate a Maryland license under §§A and B of this regulation.

(3) The Department shall issue an Advanced Professional License to an educator who holds an expired Maryland Advanced Professional Certificate and meets the requirements to reinstate a Maryland license under §§A and B of this regulation.

(4) An educator who allows a license to expire that includes a historic endorsement area may not reinstate that area.

.06 Waiver of Licensure Requirements.

A. Waiver of Licensure Requirements. Except for educator licensure tests, the State Superintendent of Schools or designee may waive the specific requirements for a license in an individual case if it is determined, after thorough investigation, that the applicant's preparation or experience, or both, are adequate to justify a waiver.

B. Senior Educator Waiver. Renewal requirements for any professionally licensed employee of a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10, may be waived if:

(1) The professionally licensed employee is:

(a) 55 years old or older; or

(b) Employed in public or approved nonpublic school service for at least 25 years; and

(2) The request is recommended by the county superintendent, executive director, or chief officer of the legal authority having jurisdiction over the employee.

13A.12.02 Teachers

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03, and 8-701—8-708, Annotated Code of Maryland

.01 Purpose.

A teacher employed in an early childhood, elementary, pre-kindergarten—12 or secondary school program shall hold an appropriate license under COMAR 13A.12.02.

.02 Licenses for Teachers.

A. Temporary Professional.

(1) The Temporary Professional Teacher License is valid for 2 years and may not be renewed.

(2) A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 may request a Temporary Professional License for an employee:

(a) Who has completed an out-of-State teacher preparation program or holds a valid out-of-State professional license but has not submitted passing scores on Maryland teacher licensure tests; or

(b) Who has failed to meet the renewal requirements of a professional license.

B. Initial Professional.

(1) The Initial Professional Teacher License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .03 of this chapter.

(2) An applicant who has met the requirements of one of the pathways to licensure under Regulation .03 of this chapter is eligible for an Initial Professional Teacher License.

C. Professional.

(1) The Professional Teacher License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .04 of this chapter.

(2) An applicant who has met the requirements of one of the pathways to licensure under Regulation .03 of this chapter is eligible for a Professional Teacher License if the applicant submits documentation:

(a) Demonstrating completion of a Maryland induction program under COMAR 13A.07.01; or

(b) Verifying 3 years of effective teaching performance.

D. Advanced Professional.

(1) The Advanced Professional Teacher License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .04 of this chapter.

(2) An applicant who has met the requirements of one of the pathways to licensure under Regulation .03 of this chapter is eligible for an Advanced Professional Teacher License if the applicant meets the requirements for the Professional Teacher License under §C of this regulation and submits documentation demonstrating that the applicant has:

(a) A master's degree or higher;

(b) At least 30 semester hours of post baccalaureate credit; or

(c) A National Board Certificate issued by the National Board for Professional Teaching Standards.

E. Conditional.

(1) A conditional license is valid for 5 years and may not be renewed.

(2) A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall request a conditional license only if the school cannot fill a position with an individual who qualifies for a license under Regulation .03 of this chapter.

(3) A conditional license may only be issued to an individual who possesses a bachelor's degree or higher.

(4) An applicant who is issued a conditional license shall pursue a pathway to professional licensure under Regulation .03 of this chapter.

F. Conditional Special Education.

(1) A conditional special education license is valid for 3 years and may not be renewed.

(2) A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall request a conditional license only if:

(a) The school cannot fill a special education position with an individual who qualifies for a license under Regulation .03 of this chapter; and

(b) The license holder receives sustained, intensive, classroom-focused professional development before and while teaching, and intensive supervision that consists of structured guidance and regular ongoing support and mentoring.

(3) A conditional license may only be issued to an individual who possesses a bachelor's degree or higher.

(4) An applicant who is issued a conditional license shall pursue a pathway to professional licensure under Regulation .03A(1) and (2) of this chapter.

G. Resident Teacher.

(1) The Resident Teacher License is valid for 3 years and may not be renewed.

(2) The provider of an alternative teacher preparation program approved under COMAR 13A.07.06, shall request a Resident Teacher License for a candidate before placement in a resident teacher assignment.

H. Adjunct Teacher.

(1) The Department may issue an adjunct license upon the request of a local school system superintendent or an education director of a nonpublic school approved under COMAR 13A.09.10.

(2) The local school system superintendent or education director of the approved nonpublic school shall include with a request for an adjunct license:

(a) The name and credentials of the individual;

(b) The course name and content to be taught; and

(c) An explanation as to why the position cannot be filled by a qualified licensed educator.

(3) The adjunct license is nontransferable between local school systems.

(4) A local school system or nonpublic school may not employ an individual who holds an adjunct license as a full-time employee.

(5) An applicant for an adjunct license shall:

(a) Hold a high school diploma or its equivalent;

(b) Hold an industry license, when applicable for the profession; and

(c) Have 5 years of satisfactory occupational experience in the field to be taught.

(6) The employing local school system or nonpublic school shall provide an individual who is issued an adjunct license with the following:

(a) A professionally licensed mentor;

(b) Side-by-side coaching or co-teaching with a professionally licensed teacher;

(c) A minimum of 45 hours of professional development, with 30 hours delivered before entry to the classroom and the remainder to be delivered throughout the school year; and

(d) Evaluations of the individual's teaching effectiveness.

(7) The adjunct license issued in accordance with this regulation is valid for a 1-year period and may be renewed upon the request of the local school system or nonpublic school.

I. Montessori Professional License. An applicant may be eligible for a Montessori Professional License if the applicant submits documentation demonstrating the applicant has:

(1) A bachelor's degree or higher;

(2) A valid credential from:

(a) The American Montessori Society;

(b) The Association Montessori Internationale; or

(c) A program accredited by the Montessori Accreditation Council for Teacher Education; and

(3) Passing scores as established by the State Superintendent of Schools on a reading instruction licensure test approved by the State Board of Education, or attestation of proficiency through observation completed by a Department-recognized assessor using a Department-provided observation tool.

.03 Pathways to Teacher Licensure.

A. In-State Pathways to Initial Teacher Licenses.

(1) Maryland Approved Program. Teacher candidates who complete a Maryland approved educator preparation program as set forth in COMAR 13A.07.06 shall meet the following requirements:

(a) Bachelor's degree or higher;

(b) Completion of an approved program as set forth in COMAR 13A.07.06;

(c) Passing scores as established by the State Superintendent of Schools on a content licensure test approved by the State Board of Education;

(d) Passing scores as established by the State Superintendent of Schools on a reading instruction licensure test approved by the State Board of Education, or attestation of proficiency through observation completed by a Department-recognized assessor using a Department-provided observation tool; and

(e) Beginning on July 1, 2025, passing scores as established by the State Superintendent of Schools on a portfolio-based performance assessment approved by the State Board of Education.

(2) *In-District Training Program.* Teacher candidates who are hired as a teacher of record in a Maryland local school district may complete a Department-approved in-district training program. Candidates seeking licensure under the in-district pathway shall meet the following requirements:

(a) Possession of a conditional license in the subject area and at the grade level of the license sought.

(b) Demonstration of content knowledge by completing the following:

(i) Bachelor's degree or higher related to the field of the license sought;

(ii) Bachelor's degree or higher in any field and a minimum of 24 semester hours of content coursework related to the license sought, which may be completed in-person, virtually, synchronously, and/or asynchronously; or

(iii) Passing scores as established by the State Superintendent of Schools on a content licensure test approved by the State Board of Education.

(c) Completion of a Maryland induction program under COMAR 13A.07.01 that includes:

(i) On-site supervision and coaching;

(ii) Ongoing instructional mentoring during the induction; and

(iii) An effective, or comparable, rating on a summative evaluation of teaching performance at the end of the induction period.

(d) Completion of a Department-approved sequence of pedagogical coursework, which may be completed in-person, virtually, synchronously, and/or asynchronously, as follows:

(i) The teaching candidate shall ensure that this sequence of coursework is aligned to the Interstate Teacher Assessment and Support Consortium standards; and

(ii) The district and coursework provider shall agree to a memorandum of understanding.

(e) Attestation from the district training program supervisor, or designee, school principal, and coursework provider, that the candidate is prepared for licensure.

(f) *Special Provisions.* Candidates seeking licensure in the areas of elementary education, early childhood education, special education, and English to Speakers of Other Languages, shall complete additional requirements, as follows:

(i) Candidates who fulfill §A(2)(b)(i) or (ii) of this regulation shall present 6 semester hours of coursework in each of the content areas of English, mathematics, science, and social studies; or

(ii) Candidates who fulfill §A(2)(b)(iii) of this regulation shall submit passing scores on an approved elementary assessment that includes subtests in the content areas of English, mathematics, science, and social studies, each of which equals 6 semester hours of credit in that content area; and

(iii) Passing score on a reading instruction test, approved by the State Board of Education, or provide attestation of proficiency through observation completed by a Department-recognized assessor using a Department-provided observation tool.

(3) *Experienced Nonpublic School Teacher.* Experienced teacher candidates working in Maryland nonpublic schools approved under COMAR 13A.09.09 shall meet the following requirements:

(a) Bachelor's degree or higher related to the field of the license sought;

(b) Verification of 5 years of effective teaching experience in the field and at the grade level of the license sought at a Maryland nonpublic school approved under COMAR 13A.09.09;

(c) Beginning on July 1, 2025, passing scores as established by the State Superintendent of Schools on a portfolio-based performance assessment approved by the State Board of Education; and

(d) *Special Provision.* Candidates seeking licensure in the areas of elementary education, early childhood education, special education, and English to Speakers of Other Languages, shall submit of a passing score on a reading instruction test, approved by the State Board of Education, or provide attestation of proficiency through observation completed by a Department-recognized assessor using a Department-provided observation tool.

B. Out-of-State Pathways to Initial Teacher License.

(1) *Out-of-State Teacher Preparation Program.* Teacher candidates who complete a teacher preparation program in another state or foreign country shall meet the following requirements:

(a) Bachelor's degree or higher, or a U.S. equivalent of a foreign degree;

(b) Complete a teacher preparation program, to include a clinical internship, approved to lead to licensure in another state or foreign country, in the license area being sought;

(c) Beginning on July 1, 2025, a passing score as established by the State Superintendent of Schools on a portfolio-based performance assessment approved by the State Board of Education; and

(d) *Special Provision.* Candidates seeking licensure in the areas of elementary education, early childhood education, special education, and English to Speakers of Other Languages, shall submit a passing score on a reading instruction test, approved by the State Board of Education, or attestation of proficiency through observation completed by a Department-recognized assessor using a Department-provided observation tool.

(2) *Out-of-State License.* Teacher candidates who hold a valid professional license/certificate from another state or foreign country shall meet the following requirements:

(a) Bachelor's degree or higher, or a U.S. equivalent for a foreign degree;

(b) Valid, professional license or certificate from another state or foreign country in the license area being sought;

(c) Beginning on July 1, 2025, passing scores as established by the State Superintendent of Schools on a portfolio-based performance assessment approved by the State Board of Education; and

(d) *Special Provision.* Candidates seeking licensure in the areas of elementary education, early childhood education, special education, and English to Speakers of Other Languages, shall submit a passing score on a reading instruction test, approved by the State Board of Education, or provide an attestation of proficiency through observation completed by a Department-recognized assessor using a Department-provided observation tool.

(3) *National Board Certificate. Teacher candidates who hold a National Board Certificate shall meet the following requirements:*

(a) *Bachelor's degree or higher; and*

(b) *National Board Certificate issued from the National Board for Professional Teaching Standards, for which a comparable Maryland license exists.*

C. Special Provisions.

(1) *The Department shall evaluate credits from institutions in other countries for comparability of degree and coursework by an independent agency authorized to analyze foreign credentials and designated by the Department. The evaluation is final.*

(2) *A National Board Certificate may be submitted instead of a portfolio-based assessment.*

(3) *An effective, or comparable, rating on a year-end evaluation may be submitted instead of a portfolio-based assessment if the candidate meets the following criteria:*

(a) *Meets the requirements for initial licensure under §A(3) or B(1)-(2) of this regulation; and*

(b) *Is employed by a Maryland local school system, State-operated school, or approved nonpublic school approved under COMAR 13A.09.10.*

.04 Renewal and Advancement of a Teacher License.

A. General.

(1) *An applicant who holds a license is responsible for initiating the renewal of the license.*

(2) *An applicant shall ensure renewal requirements are received before the expiration date of the license to be considered continuous.*

(3) *Failure to Meet Requirements. Failure to meet the requirements of this section results in nonrenewal of the license.*

(4) *A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 may request a Temporary Professional License under Regulation .02A of this chapter for an employee who fails to meet the renewal requirements of the Initial Professional, Professional, or Advanced Professional license.*

B. Professional Development Requirements. The Initial Professional, Professional, and Advanced Professional license may be renewed for successive 5-year terms on the successful completion of the requisite number of professional development points (PDPs) as set forth in Regulation .06 of this chapter based on an individual professional development plan as set forth in Regulation .05 of this chapter that is designed to improve teaching and student learning and that is approved, if required, by the educator's supervisor.

C. Application Process.

(1) *Renewal. An educator may renew their existing Initial Professional, Professional, or Advanced Professional License by submitting:*

(a) *A completed application, in the manner required by the Department;*

(b) *A statement, signed under the penalty of perjury, that the applicant has completed all requirements for licensure renewal, including the requisite number of Professional Development Points under an Individual Professional Development Plan; and*

(c) *The required fee.*

(2) *Advancement. An educator may request advancement to a new level of licensure by submitting:*

(a) *A completed application, in the manner required by the Department;*

(b) *Supporting documentation demonstrating the applicant has met the requirements for the new level of licensure; and*

(c) *The required fee.*

(3) *All documentation submitted is subject to audit by the Department, and the educator shall provide additional documentation to the Department on request.*

(4) *Individuals employed by a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10, may submit documentation directly to the employer.*

(5) *Individuals who are not employed by a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall submit documentation directly to the Department.*

.05 Individual Professional Development Plans.

A. Individual Professional Development Plans.

(1) *An educator shall have an individual professional development plan in place for each of the 5 years of validity for each Initial Professional, Professional, and Advanced Professional license issued to the educator.*

(2) *An educator shall ensure this individual professional development plan includes a minimum of 90 professional development points as set forth in Regulation .06 of this chapter, to renew the educator's License.*

(3) *Educators who are not employed with a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 are responsible for developing their own individual professional development plan.*

B. Approval of an Individual Professional Development Plan.

(1) *Educators working in a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall obtain approval of their proposed individual professional development plan from their supervisors.*

(2) *The educator's supervisor, or an appropriate designee, shall approve proposed individual professional development.*

(3) *Educators shall obtain initial approval of their individual professional development plan within 6 months of issuance of the license to be renewed.*

(4) *Supervisor Review.*

(a) *A supervisor shall review the existing individual professional development plan of any educator new to the district or school within 3 months of the educator's beginning employment in the new position.*

(b) *A supervisor may require an educator to amend the plan or may withdraw approval for a plan that had been previously approved, but the Department shall approve any professional development points that were earned consistently with an approved plan in the application for license renewal.*

(5) *Signatures.*

(a) *Before applying to renew an Initial Professional, Professional, and Advanced Professional license, educators shall obtain a signature from a current supervisor.*

(b) A supervisor's signature shall indicate that the supervisor has reviewed the log of professional development activities maintained by the educator to ensure that the reported activities are consistent with the approved individual professional development plan.

(c) The educator remains responsible for the final accounting of professional development points applied towards license renewal.

(d) An educator whose supervisor refuses to sign an individual professional development plan may follow the review procedures set forth in §B(7) of this regulation.

(6) Approval of an individual professional development plan may not be unreasonably withheld by a supervisor.

(7) If a plan is rejected by a supervisor, an educator may seek review of the denial from:

(a) The superintendent of schools, or designee, if employed with a local school system;

(b) The Chief Officer of the Legal Authority, or designee, if employed with a nonpublic school approved under COMAR 13A.09.10; or

(c) The Executive Director, or comparable position, if employed with a State-operated school.

.06 Professional Development Points.

A. Professional Development Point (PDP). The Department shall measure professional development activities as follows:

(1) 1 clock hour is equivalent to one PDP.

(2) 1 semester hour is equivalent to 15 PDPs.

(3) One Department-approved continuing professional development credit is equivalent to 15 PDPs.

(4) One continuing education unit is equivalent to ten PDPs.

B. Educators applying to renew an Initial Professional, Professional, or Advanced Professional License shall complete a minimum of 90 PDPs to include:

(1) Content or pedagogy related to an area on the educator's license;

(2) English as a Second Language, Sheltered English, or Bilingual Education;

(3) Strategies for teaching students with disabilities, or differentiated instruction for students with diverse learning needs; and

(4) Culturally Responsive Teaching or diverse student identities in education.

C. Additional Requirements for Specific Certification Areas.

(1) *Blind/Visually Impaired.* Teachers who hold a license in the area of the *Blind/Visually Impaired* shall present a minimum of 15 PDPs in braille maintenance.

(2) *School Counselor.* An educator who is licensed as a *School Counselor* shall present 1 semester hour of coursework from an institution of higher education, one Department-approved continuing professional development credit; or an equivalent number of continuing education units that address the following:

(a) Depression;

(b) Trauma;

(c) Violence;

(d) Youth suicide;

(e) Substance abuse; and

(f) The identification of professional resources and best practices for distributing resources to parents or guardians to help students in crisis.

(3) *Administrator.* If an educator is employed in a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 and assigned in an administrator or supervisor position, the educator shall submit PDPs which include:

(a) Strategies for increasing teacher retention; and

(b) Strategies for developing and facilitating teacher leadership.

D. *Special Provision.* Beginning on July 1, 2025, all teachers employed in a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 in a position that requires a license in early childhood education, elementary education, special education, or English to Speakers of Other Languages shall demonstrate proficiency in the knowledge and practices of scientific reading instruction, to include phonemic awareness, phonics, fluency, vocabulary, and comprehension, as follows:

(1) Demonstration of proficiency may be satisfied by submitting one of the following:

(a) A passing score on a reading instruction test approved by the State Board of Education;

(b) Completion of coursework or professional learning approved by the Department;

(c) Submission of attestation of proficiency through observation completed by a Department-recognized assessor; or

(d) Completion of training provided by the Department in the science of reading for the purpose of fulfilling the requirements of renewal.

(2) A license holder required to demonstrate proficiency in the knowledge and practices of scientific reading instruction shall present the requirements in §D(1) of this regulation when renewing a license, as follows:

(a) The license holder may submit verification of enrollment in §D(1)(b) or (d) of this regulation to satisfy the terms of renewal.

(b) The license holder shall present documentation demonstrating completion of §D(1)(b) or (d) of this regulation by the subsequent renewal.

(3) A license holder is considered proficient in the knowledge and practices of scientific reading instruction when the requirements of this section have been submitted.

(4) The Department shall ensure this license indicates that a license holder is proficient in the knowledge and practices of scientific reading instruction.

E. Professional development points may be accrued by the completion of one of more of the following:

(1) College credit earned or taught at an accredited institution of higher education.

(2) Continuing professional development (CPD) credits, earned or taught, approved by the Department.

(3) Continuing education units (CEUs) from an accredited International Association for Continuing Education and Training provider or approved by another Maryland State agency for purposes of licensure.

(4) *Professional conference. A professional conference is a workshop, institute, or seminar of 4 or more hours that contributes to ongoing, sustained, and high-quality professional development.*

(5) *Curriculum Development.*

(a) *Curriculum development is a group activity in which the license holder contributes to the improvement of the curriculum of a school, a school division, or an educational institution.*

(b) *This includes the alignment of curriculum frameworks, instructional materials, and assessments to provide a system with clear expectations of what is to be taught and learned.*

(c) *For each curriculum developed, the Department shall award the educator up to 30 PDPs.*

(6) *Publication of a Book or Article.*

(a) *The license holder shall ensure that the book or article contributes to the education profession or to the body of knowledge of the license holder's teaching area or instructional position.*

(b) *The educator shall ensure that an article is published in a recognized professional journal.*

(c) *The educator shall ensure that books are published for purchase.*

(d) *For each book published, the Department shall award the educator up to 75 PDPs. For each article published, the Department shall award the educator up to 10 PDPs.*

(7) *Mentorship.*

(a) *Mentoring is the process by which an experienced professional who has received mentorship training helps one or more individuals to improve their performance.*

(b) *Assistance may involve role modeling, direct instruction, demonstration, observation with feedback, developing of plans, and consultation to promote instructional excellence and increased student achievement.*

(c) *Mentoring may include the supervision of a field experience of a pre-service student teacher or an intern in an approved teacher preparation program, as well as mentoring as part of the induction process for a beginning teacher.*

(8) *Micro-Credentials.*

(a) *Micro-credentials are a digital form of certification indicating demonstrated competency/mastery in a specific skill or set of skills.*

(b) *Educators identify a competency they want to develop, submit evidence that they have mastered the competency, and receive a digital badge once the evidence is approved.*

(c) *Micro-credentials can be earned by non-profit and for-profit entities approved by the local school system, State-operated school, nonpublic school, or the Department.*

(d) *For each micro-credential earned, the Department shall award the educator up to 10 PDPs.*

(9) *Professional Development Activity.*

(a) *The Department shall accept professional development activities approved by the Department, Maryland local school system, State Agency, a Maryland approved nonpublic school, or another state department of education.*

(b) *The license holder shall ensure that each activity is a minimum of 1 contact hour.*

F. *An educator who earns a National Board Certificate from the National Board of Professional Teaching Standards may present that certificate when subsequently renewing a Maryland Educator License as a substitute for §B of this regulation.*

.07 Teaching Endorsements.

A. *An individual who meets the qualification for initial licensure under Regulation .02B of this chapter may add an additional teaching endorsement by submitting documentation demonstrating that the applicant has obtained:*

(1) *A qualifying score, as established by the State Superintendent of Schools, on the content-specific test(s) approved by the State Board of Education; or*

(2) *24 content credits as follows:*

(a) *For elementary or early childhood education, 24 credits distributed across the four content areas of English, social studies, math, and science, with at least 6 credits in each content area;*

(b) *For secondary, middle school, pre-kindergarten—12 education, 24 credits, at least 12 of which are in the area for which the new certification is sought and 12 of which are in content-related areas; or*

(c) *For special education, 24 credits, at least 12 of which are in the age-appropriate area of special education and 12 of which are in related areas or researched-based literacy instruction aligned to the science of reading.*

B. Special Provisions.

(1) *To receive an endorsement in Elementary Education, Early Childhood Education, English for Speakers of Other Languages, and Special Education, an educator shall qualify under §A of this regulation and demonstrate proficiency in the knowledge and practices in scientific reading instruction, to include phonemic awareness, phonics, fluency, vocabulary, and comprehension, by:*

(a) *Submitting a passing score on a reading instruction test, approved by the State Board of Education;*

(b) *Completion of coursework or professional learning approved by the Department, and provided by a Department-recognized partner approved to deliver instruction in the science of reading;*

(c) *Submission of attestation of proficiency through observation completed by a Department-recognized assessor; or*

(d) *Completion of training provided by the Department in the science of reading for the purpose of fulfilling the requirements of renewal.*

(2) *To receive an endorsement in Deaf and Hard of Hearing or Blind/Visually Impaired, an educator shall meet the requirements for initial licensure under Regulation .03 of this chapter.*

C. *Certain areas of licensure require that the educator hold an existing teacher license and shall only be added as an endorsement, as follows:*

(1) *Mathematics Instructional Leader Grades Pre-Kindergarten—6. To add Mathematics Instructional Leader, grades pre-kindergarten—6, an applicant shall:*

(a) *Hold a valid, professional license;*

(b) Complete a minimum of 18 semester hours of post-baccalaureate credit, or Department-approved continuing professional development credits, which include the following areas:

- (i) Content knowledge for teaching mathematics, including numbers and operations, algebra and functions, geometry and measurement, and data analysis and probability;
 - (ii) Pedagogical knowledge for teaching mathematics, including learners and learning, teaching, curriculum, and assessment;
 - (iii) Leadership knowledge and skills; and
 - (iv) At least 3 semester hours or the equivalent in a supervised practicum or school-based internship in which the applicant works with a range of students in grades pre-kindergarten—6 and adult learners in a variety of professional development settings; and
- (c) Present verification of 27 months of satisfactory teaching experience including mathematics.

(2) Mathematics Instructional Leader Grades 4-9. To add Mathematics Instructional Leader, grades 4—9, an applicant shall:

- (a) Hold a valid, professional license in Middle School Mathematics;
- (b) Complete a minimum of 21 semester hours of post-baccalaureate credit, or Department-approved continuing professional development credits, which include the following areas:
 - (i) Content knowledge for teaching mathematics, including number and operations, algebra and functions, geometry and measurement, data analysis and probability, calculus, and discrete mathematics;
 - (ii) Pedagogical knowledge for teaching mathematics, including learners and learning, teaching, curriculum, and assessment;
 - (iii) Leadership knowledge and skills; and
 - (iv) At least 3 semester hours or the equivalent in a supervised practicum or school-based internship in which the candidate works with a range of students in grades 4—9 and adult learners in a variety of professional development settings; and
- (c) Present verification of 27 months of satisfactory teaching experience including mathematics.

(3) Instructional Leader: STEM Grades Pre-Kindergarten—6. To add Instructional Leader: STEM, grades pre-kindergarten—6, an applicant shall:

- (a) Hold a valid, professional license in early childhood education or elementary education;
- (b) Complete a minimum of 12 semester hours of post-baccalaureate credit or Department-approved continuing professional development credits, to include the following:
 - (i) 12 semester hours in STEM education which integrates a balance of authentic problem-based and project-based learning;
 - (ii) Essential skills including questioning, spatial reasoning, communication, critical thinking, and problem solving;
 - (iii) Engineering design process;
 - (iv) Application of scientific practices and content;
 - (v) Application of mathematical practices and content;
 - (vi) Technology literacy; and
 - (vii) Collaborative learning;
- (c) Complete 3 semester hours or the equivalent in leadership knowledge and skills in providing professional learning in a school/district setting;
- (d) Complete at least 3 semester hours or the equivalent in a supervised practicum or school-based internship in which the applicant works with a range of students in grades pre-kindergarten—6 and adult learners in a variety of professional development settings; and
- (e) Present verification of 27 months of satisfactory teaching experience.

(4) Severe and Profound Disabilities. To add a Severe and Profound Disabilities endorsement, an educator shall meet the following requirements:

- (a) Special Education Licensure. The applicant shall meet the requirements for licensure in generic special education at any age/grade level; and
- (b) Content and Professional Education Courses. The applicant shall have:
 - (i) 3 semester hours in human growth and development emphasizing knowledge of the developmental characteristics (physical, biological, cognitive—learning, and social/emotional) of students with severe and profound disabilities;
 - (ii) 6 semester hours in assessment, diagnosis, and prescriptive techniques emphasizing specialized knowledge, interpretation and application of appropriate assessment, diagnostic and prescriptive methods to evaluate and develop programs geared toward the individualized needs of students with severe and profound disabilities;
 - (iii) 6 semester hours in curriculum and instructional methods emphasizing specialized strategies, techniques, materials, and adaptations appropriate to the instruction of students with severe and profound disabilities; and
 - (iv) 6 semester hours in practicum with students with severe and profound disabilities or 2 years of successful teaching experience with students with severe and profound disabilities.

(5) Work-Based Learning Coordinator Grades 7-12. To add Work-Based Learning Coordinator, an educator shall meet the following requirements:

- (a) Hold a professional license in a secondary teaching area or pre-kindergarten—12 teaching area;
- (b) Complete 6 semester hours of content coursework taken at an accredited institution of higher education or through CPDs, with a minimum of 3 semester hours in each of the following content areas:
 - (i) Organizing, coordinating, and marketing of work-based learning programs; and
 - (ii) Instructional management and curriculum development for work-based learning programs; and
- (c) Complete a work experience requirement through any of the following:
 - (i) Documented evidence of employment equivalent to a minimum of 1,000 hours of satisfactory, wage-earning, nonteaching occupational experience;
 - (ii) Documented evidence of employment equivalent to a minimum of 1,000 hours that shall include 500 hours of satisfactory, wage-earning, nonteaching occupational experience and 500 hours of self-employment;
 - (iii) Participating in a supervised and approved teacher externship experience of at least 150 hours, to include all aspects of the industry in accordance with the local school system guidelines for work-based learning coordinator externships at a work site approved by the

local school system; or

(iv) Complete 3 semester hours of content coursework in contemporary workplace practices taken at an accredited institution of higher education through CPDs that includes site visits to business and industry settings and exposure to all aspects of the industry.

(6) All work experience under §C(5)(c) of this regulation shall have occurred within 10 years of the educator's request to add the endorsement.

(a) The educator shall submit verification of occupational experience in the form of a notarized letter by former employers, listing specific job titles, duties performed, dates of employment, and hours worked.

(b) The educator shall verify self-employment by license or by submitting tax forms.

.08 Assignment.

A. *License Required for Major Assignment.* Each teacher employed in Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall hold an Initial, Professional, or Advanced Professional license in the teacher's area of major assignment.

B. *Assignment to More Than Two Classes Outside Area of Licensure.*

(1) A teacher should not be assigned to teach more than two classes outside the teacher's area of licensure.

(2) If a school finds it necessary to assign a teacher to more than two classes unrelated to the teacher's area of licensure, the teacher shall provide documentation verifying competence teaching in the area for each consecutive year after the first year that a teacher is assigned. Competency may be demonstrated by:

(a) Submitting a minimum of 6 semester hours of content coursework in the area; or

(b) Submitting an effective, or comparable, end-of-year evaluation.

(3) *Title I Schools.*

(a) Title I schools shall notify parents that they can request specific information about a teacher's qualifications.

(b) Title I schools shall notify parents and guardians of each student who is being taught by a teacher who is teaching an area unrelated to their licensure for four or more consecutive weeks.

(4) *Class* means a period allocated for lessons during a school day.

C. *Monitoring.* The Department shall monitor the assignment practices of local school systems, State-operated schools, and nonpublic schools approved under COMAR 13A.09.10 on a periodic basis.

13A.12.03 Professional and Technical Education and Specialized Areas for Fine Arts

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03, and 8-701—8-708, Annotated Code of Maryland

.01 Purpose.

A. *Professional and Technical Education and Specialized Areas for Fine Arts teachers shall meet the requirements for a license under Regulation .02 of this chapter.*

B. *A Professional and Technical Education or Specialized Areas for Fine Arts license shall only be used for instruction in a specialized program or at a specialized school.*

C. *A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall request an initial Professional and Technical Education or Specialized Areas for Fine Arts license.*

D. *An individual licensed in Professional and Technical Education or Specialized Areas for Fine Arts who is no longer employed with a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 may request the renewal of that license directly from the Department.*

.02 Licenses and Pathways for Professional and Technical Education and Specialized Areas for Fine Arts.

A. *Types of Professional and Technical Education and Specialized Areas for Fine Arts Licenses.*

(1) *Temporary Professional.*

(a) *The Temporary Professional License is valid for 2 years and may not be renewed.*

(b) *A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 may request a Temporary Professional License for an applicant who does not meet the renewal requirements of a professional license.*

(2) *Initial Professional.*

(a) *The Initial Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .03 of this chapter.*

(b) *An applicant who is employed in a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 and has met the requirements of one of the pathways to licensure under §C of this regulation is eligible for an Initial Professional License.*

(3) *Professional.*

(a) *The Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .03 of this chapter.*

(b) *An applicant who is employed in a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 and has met one of the pathways to licensure under §C of this regulation is eligible for a Professional License if the applicant submits documentation:*

(i) *Demonstrating completion of a Maryland induction program under COMAR 13A.07.01; or*

(ii) *Verifying 3 years of effective teaching performance.*

(4) *Advanced Professional.*

(a) *The Advanced Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .03 of this chapter.*

(b) An applicant who has met the requirements of one of the pathways to licensure under §B of this regulation is eligible for an Advanced Professional Teacher License if the applicant meets the requirements for the Professional License under §A(3) of this regulation and submits documentation demonstrating that the applicant has:

- (i) A master's degree or higher;
- (ii) At least 30 semester hours of post baccalaureate credit; or
- (iii) A National Board Certificate issued by the National Board for Professional Teaching Standards.

(c) An applicant for the Advanced Professional License in a Professional Technical Education/Specialized Area of Fine Arts area who does not possess a bachelor's degree shall complete a planned program of 30 semester hours of credit, or submit a National Board Certificate issued by the National Board for Professional Teaching Standards.

(5) Conditional.

(a) A conditional license is valid for 5 years and may not be renewed.

(b) A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 may request a conditional license if:

- (i) The school cannot fill a position with an individual who qualifies for a license under §A(1)—(4) of this regulation; and
- (ii) The individual presents verification of 3 years of occupational experience in the career area to be taught as defined in §C(5)(a) of this regulation.

(c) An applicant who is issued a conditional license shall pursue a pathway to professional licensure under §C of this regulation.

(6) Adjunct Teacher.

(a) The Department may issue an adjunct license on the request of a local school system superintendent or an education director of a nonpublic school approved under COMAR 13A.09.10.

(b) The request for adjunct license shall include:

- (i) The name and credentials of the individual;
- (ii) The course name and content to be taught; and
- (iii) An explanation as to why the position cannot be filled by a qualified license holder.

(c) The adjunct license is nontransferable between local school systems.

(d) A local school system or nonpublic school may not employ an individual who holds an adjunct license as a full-time employee.

(e) An applicant for an adjunct license shall:

- (i) Hold a high school diploma or its equivalent;
- (ii) Hold an industry license, when applicable for the profession; and
- (iii) Have 5 years of satisfactory occupational experience in the field to be taught.

(f) The employing local school system or nonpublic school shall provide an individual who is issued an adjunct license the following:

- (i) A professionally licensed mentor;
- (ii) Side-by-side coaching or co-teaching with a professionally licensed teacher;
- (iii) A minimum of 45 hours of professional development, with 30 hours delivered before entry to the classroom and the remainder to be delivered throughout the school year; and
- (iv) Evaluations of the individual's teaching effectiveness.

(g) The adjunct license issued in accordance with this regulation is valid for a 1-year period and may be renewed on the request of the local school system or nonpublic school.

B. In addition to holding an educator license, the applicant is governed by current licensure, certification, or registration regulations administered by professional organizations or legally constituted authorities in the State, in the career area to be taught, if applicable.

C. Pathways to Professional and Technical Education/Specialized Areas for Fine Arts Licensure.

(1) Maryland Approved Program. Candidates who complete a Maryland approved educator preparation program as set forth in COMAR 13A.07.06 shall meet the following requirements:

- (a) Bachelor's degree or higher; and
- (b) Completion of an approved program as set forth in COMAR 13A.07.06.

(2) Out-of-State Preparation Program. Candidates who complete a state-approved educator preparation program leading to licensure in that state shall meet the following requirements:

- (a) Bachelor's degree or higher; and
- (b) Complete a preparation program, including a clinical internship, approved to lead to professional and technical education licensure in another state, in the license area being sought.

(3) Out-of-State License. Candidates who hold a valid or expired professional license/certificate in a professional and technical education area from another state or foreign country are eligible for a comparable Maryland license.

(4) National Board Certificate (Professional and Technical Education only). Candidates who hold a National Board Certificate in the area of Career and Technical Education are eligible for a comparable Advanced Professional License.

(5) Occupational Experience. Candidates with occupational experience in a Professional and Technical area or Specialized Area of Fine Arts shall meet the following requirements:

(a) Occupational Experience.

(i) Verification of 3 years of occupational experience in the area to be taught that may include satisfactory post-secondary teaching experience in the area to be taught; and/or satisfactory occupational employment.

(ii) The applicant may substitute a Department-accepted, current industry recognized credential for 1 year of the occupational experience requirement.

(iii) The applicant may substitute a bachelor's or associate's degree in the area to be taught for 1 year of the occupational experience requirement.

(b) Completion of 12 credits of professional education coursework from an institution of higher education or through Department-approved continuing professional development credits to include the following topics:

- (i) *Planning, delivering, and assessing instruction;*
- (ii) *Classroom management;*
- (iii) *Differentiating Instruction to accommodate students with special needs; and*
- (iv) *Teaching literacy in the content area.*

D. Special Provision. The Department shall evaluate credits from institutions in other countries for comparability of degree and coursework through an independent agency authorized to analyze foreign credentials and designated by the Department. The evaluation is conclusive for the Department.

E. Professional and Technical Education/Specialized Areas for Fine Arts Endorsements.

(1) An individual who holds a professional license under §A(1)—(4) of this regulation may add an additional Professional and Technical Education/Specialized Areas for Fine Arts endorsement by submitting documentation demonstrating that the individual has:

- (a) Obtained a valid, Department-recognized industry credential in the area to be taught; or*
- (b) Meets the requirements for initial licensure under §C of this regulation.*

(2) A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall request an additional Professional and Technical Education/Specialized Areas for Fine Arts endorsement.

.03 Renewal and Advancement of a Professional and Technical Education/Specialized Areas for Fine Arts License.

A. General.

(1) An applicant who holds a license is responsible for initiating the renewal of the license.

(2) An applicant shall ensure renewal requirements are received before the expiration date of the license to be considered continuous.

(3) Failure to Meet Requirements. Failure to meet the requirements of this section results in nonrenewal of the license. A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 may request a Temporary Professional License under Regulation .02A(2) of this chapter for an employee who fails to meet the renewal requirements of the Initial Professional, Professional, or Advanced Professional license.

(4) Advancement to a New License. An applicant may apply to advance to the next level of licensure by meeting the requirements under Regulation .02A of this chapter.

B. Professional Development Requirements. The Initial Professional, Professional, and Advanced Professional license may be renewed for successive 5-year terms on the successful completion of the requisite number of professional development points (PDPs), as set forth in Regulation .05 of this chapter, based on an individual professional development plan, as set forth in Regulation .04 of this chapter, that is designed to improve teaching and student learning and that is approved, if required, by the educator's supervisor.

C. Application Process.

(1) Renewal. An educator may renew their existing Initial Professional, Professional, or Advanced Professional License by submitting:

- (a) A completed application, in the manner required by the Department;*
- (b) A statement, signed under the penalty of perjury, that the applicant has completed all requirements for licensure renewal, including the requisite number of Professional Development Points under an Individual Professional Development Plan; and*
- (c) The required fee.*

(2) Advancement. An educator may request advancement to a new level of licensure by submitting:

- (a) A completed application, in the manner required by the Department;*
- (b) Supporting documentation demonstrating the applicant has met the requirements for the new level of licensure; and*
- (c) The required fee.*

(3) All documentation submitted is subject to audit by the Department, and the educator shall provide additional documentation to the Department on request.

(4) Individuals employed by a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10, may submit documentation directly to the employer.

(5) Individuals who are not employed by a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall submit documentation directly to the Department.

.04 Individual Professional Development Plans — Professional and Technical Education/Specialized Areas for Fine Arts.

A. Individual Professional Development Plans.

(1) An educator shall have an individual professional development plan in place for each of the 5 years of validity for each Initial Professional, Professional, and Advanced Professional license issued to the educator.

(2) An individual professional development plan shall include a minimum of 90 professional development points, as set forth in Regulation .05 of this chapter, to renew the educator's license.

(3) Educators who are not employed with a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 are responsible for developing their own individual professional development plan.

B. Approval of an Individual Professional Development Plan.

(1) Educators working in a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall obtain approval of their proposed individual professional development plan from their supervisors.

(2) The educator's supervisor, or an appropriate designee, shall approve proposed individual professional development plans.

(3) Educators shall obtain initial approval of their individual professional development plan within 6 months of issuance of the license to be renewed.

(4) Supervisor Review.

(a) A supervisor shall review the existing individual professional development plan of any educator new to the district or school within 3 months of the educator's beginning employment in the new position.

(b) A supervisor may require an educator to amend the plan or may withdraw approval for a plan that had been previously approved, but the Department shall approve any professional development points that were earned consistently with an approved plan in the application for license renewal.

(5) Signatures.

(a) Before applying to renew an Initial Professional, Professional, or Advanced Professional license, educators shall obtain a signature from a current supervisor.

(b) A supervisor's signature shall indicate that the supervisor has reviewed the log of professional development activities maintained by the educator to ensure that the reported activities are consistent with the approved individual professional development plan.

(c) The educator remains responsible for the final accounting of professional development points applied towards license renewal.

(d) An educator whose supervisor refuses to sign an individual professional development plan may follow the review procedures set forth in §B(7) of this regulation.

(6) Approval of an individual professional development plan may not be unreasonably withheld by a supervisor.

(7) If a plan is rejected by a supervisor, an educator may seek review of the denial from:

(a) The superintendent of schools, or designee, if employed with a local school system;

(b) The Chief Officer of the Legal Authority, or designee, if employed with a nonpublic school approved under COMAR 13A.09.10; or

(c) The Executive Director, or comparable position, if employed with a State-operated school.

.05 Professional Development Points- Professional and Technical Education/Specialized Areas for Fine Arts.

A. Professional Development Point (PDP). The Department shall measure professional development activities as follows:

(1) 1 clock hour is equivalent to one PDP.

(2) 1 semester hour is equivalent to 15 PDPs.

(3) One Department-approved continuing professional development credit is equivalent to 15 PDPs.

(4) One continuing education unit is equivalent to ten PDPs.

B. Educators applying to renew an Initial Professional, Professional, or Advanced Professional License shall complete a minimum of 90 PDPs to include:

(1) Content or pedagogy related to an area on the educator's license;

(2) English as a Second Language, Sheltered English, or Bilingual Education;

(3) Strategies for teaching students with disabilities, or differentiated instruction for students with diverse learning needs; and

(4) Culturally Responsive Teaching or diverse student identities in education.

C. Additional Requirements for Specific Certification Areas.

(1) Blind/Visually Impaired. Teachers who hold a license in the area of the Blind/Visually Impaired shall present a minimum of 15 PDPs in braille maintenance.

(2) School Counselor. An educator who is licensed as a School Counselor shall present 1 semester hour of coursework from an institution of higher education, one Department-approved continuing professional development credit; or an equivalent number of continuing education units that address the following:

(a) Depression;

(b) Trauma;

(c) Violence;

(d) Youth suicide;

(e) Substance abuse; and

(f) The identification of professional resources and best practices for distributing resources to parents or guardians to help students in crisis.

(3) Administrator. If an educator is employed in a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 and assigned in an administrator or supervisor position, the educator shall submit PDPs which include:

(a) Strategies for increasing teacher retention; and

(b) Strategies for developing and facilitating teacher leadership.

D. Professional development points may be accrued by the completion of one of more of the following:

(1) College credit earned or taught at an accredited institution of higher education.

(2) Continuing professional development (CPD) credits, earned or taught, approved by the Department.

(3) Continuing education units (CEUs) from an accredited International Association for Continuing Education and Training provider or approved by another Maryland State agency for purposes of licensure.

(4) Professional conference. A professional conference is a workshop, institute, or seminar of 4 or more hours that contributes to ongoing, sustained, and high-quality professional development.

(5) Curriculum Development.

(a) Curriculum development is a group activity in which the license holder contributes to the improvement of the curriculum of a school, a school division, or an educational institution.

(b) This includes the alignment of curriculum frameworks, instructional materials, and assessments to provide a system with clear expectations of what is to be taught and learned.

(c) For each curriculum developed, the Department shall award the educator up to 30 PDPs.

(6) Publication of a Book or Article.

(a) The license holder shall ensure that the book or article contributes to the education profession or to the body of knowledge of the license holder's teaching area or instructional position.

(b) The educator shall ensure that an article is published in a recognized professional journal.

(c) The educator shall ensure that books are published for purchase.

(d) For each book published, the Department shall award the educator up to 75 PDPs. For each article published, the Department shall award the educator up to 10 PDPs.

(7) Mentorship.

(a) Mentoring is the process by which an experienced professional who has received mentorship training helps one or more individuals to improve their performance.

(b) Assistance may involve role modeling, direct instruction, demonstration, observation with feedback, developing of plans, and consultation to promote instructional excellence and increased student achievement.

(c) Mentoring may include the supervision of a field experience of a pre-service student teacher or an intern in an approved teacher preparation program, as well as mentoring as part of the induction process for a beginning teacher.

(8) Micro-Credentials.

(a) Micro-credentials are a digital form of certification indicating demonstrated competency/mastery in a specific skill or set of skills.

(b) Educators identify a competency they want to develop, submit evidence that they have mastered the competency, and receive a digital badge once the evidence is approved.

(c) Micro-credentials can be earned by non-profit and for profit entities approved by the local school system, State-operated school, nonpublic school, or the Department.

(d) For each micro-credential earned, the Department shall award the educator up to 10 PDPs.

(9) Professional Development Activity.

(a) The Department shall accept professional development activities approved by the Department, Maryland local school system, State Agency, a Maryland approved nonpublic school, or another state department of education.

(b) The license holder shall ensure that each activity is a minimum of 1 contact hour.

(10) Occupational Experience.

(a) Occupational experience related to the career area being taught may be used to earn PDPs.

(b) For every 10 hours worked, the educator may earn 1 PDP.

(c) Occupational experience is limited to 15 PDPs.

E. An educator who earns a National Board Certificate from the National Board of Professional Teaching Standards may present that certificate when subsequently renewing a Maryland Educator License as a substitute for §B of this regulation.

13A.12.04 Specialists

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03, and 8-701—8-708, Annotated Code of Maryland

.01 Purpose.

Specialists employed in an early childhood, elementary, pre-kindergarten—12 or secondary school program shall hold an appropriate license under COMAR 13A.12.04 or a license in certain areas as otherwise provided in State law.

.02 Licenses for Specialists.

A. Types of Specialist Licenses.

(1) Temporary Professional.

(a) The Temporary Professional License is valid for 2 years and may not be renewed.

(b) A local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 may request a Temporary Professional License for an applicant who does not meet the renewal requirements of a professional license.

(2) Initial Professional.

(a) The Initial Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .13 of this chapter.

(b) An applicant who has met the requirements of one of the pathways to licensure under Regulations .03—.12 of this chapter is eligible for an Initial Professional License.

(3) Professional.

(a) The Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .13 of this chapter.

(b) An applicant who has met the requirements of one of the pathways to licensure under Regulations .03—.12 of this chapter is eligible for a Professional License if the applicant submits documentation:

(i) Verifying 3 years of effective performance as a specialist; and

(ii) Demonstrating completion of a Maryland induction program, if applicable.

(4) Advanced Professional.

(a) The Advanced Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .13 of this chapter.

(b) An applicant who has met the requirements of one of the pathways to licensure under this chapter is eligible for an Advanced Professional License if the applicant meets the requirements for the Professional License under §A(2) of this regulation and submits documentation demonstrating that the applicant has:

(i) A master's degree or higher;

(ii) At least 30 semester hours of post baccalaureate credit; or

(iii) A National Board Certificate issued by the National Board for Professional Teaching Standards.

B. The Department shall evaluate credits from institutions in other countries for comparability of degree and coursework by an independent agency authorized to analyze foreign credentials and designated by the Department. The evaluation is conclusive for the Department.

.03 School Counselor.

The requirements for licensure as school counselor are that the applicant shall:

A. Complete 3 semester hours or State-approved CPD credits in special education coursework; and

B. Complete one of the following pathways:

(1) *Maryland Approved Program*. Candidates who possess a master's degree and complete a program approved under COMAR 13A.07.06 leading to licensure as a school counselor.

(2) *National Board of Certified Counselors (NBCC)*. Candidates who possess a master's degree in school counseling or school guidance and counseling, a valid National Board of Certified Counselors certificate, and 2 years of effective performance as a teacher or school counselor in a school setting.

(3) *National Board for Professional Teaching Standards (NBPTS)*. Candidates who possess a master's degree in school counseling or school guidance and counseling and present a valid National Board Certificate in the area of School Counseling.

(4) *Out-of-State Program*. Candidates who possess a master's degree in school counseling or school guidance and counseling from an out-of-State approved program and 2 years of effective performance as a teacher or school counselor or 500 clock hours in a supervised practicum in school counseling.

(5) *Council for Accreditation of Counseling and Related Educational Programs (CACREP)*. Candidates who possess a master's degree in school counseling or school guidance and counseling from a program approved by the Council for Accreditation of Counseling and Related Educational Programs.

(6) *Experienced Professional*. Candidates who possess a master's degree and a valid, professional certificate from another state and verification of at least 27 months of effective performance as a school counselor.

.04 Library Media Specialist.

A. Definitions.

(1) *In this regulation, the following terms have the meanings indicated.*

(2) *Terms Defined.*

(a) *"Library media" means a variety of communication and information formats and their accompanying technologies appropriate to learning and instruction.*

(b) *"Library media specialist" means an individual who has developed knowledge, understanding of, and competency in the broad range of library media services, with particular emphasis on those competencies related to the development and administration of a comprehensive school library media program.*

B. Pathways to Licensure. To qualify for a Professional Specialist License, a candidate shall complete one of the following pathways:

(1) *Maryland Approved Program*. Candidates who possess a master's degree and complete a program approved under COMAR 13A.07.06 leading to licensure as a library media specialist.

(2) *Out-of-State Preparation Program*. Candidates who possess a master's degree and complete an approved program leading to licensure as a library media specialist in another state.

(3) *Experienced Professional*. Candidates who possess a master's degree, hold a valid professional library media license from another state or country, and submit verification of 3 years of full-time effective experience as a library media specialist.

(4) *National Board Certification*. Candidates who possess a master's degree and a National Board Certificate in the area of Library Media.

(5) *Master's Equivalent.*

(a) *The applicant shall have a bachelor's degree or higher from an institution of higher education, to include a program of 36 semester hours of post-baccalaureate credit with 15 semester hours completed at one institution and a minimum of 24 semester hours of graduate credit in the content coursework listed in §B(5)(a) of this regulation.*

(b) *Content coursework shall include:*

(i) *Administration of library media programs, including an understanding of State and national library media standards and technology standards;*

(ii) *Materials for children in all formats, including concepts related to the teaching and learning of reading;*

(iii) *Materials for young adults in all formats, including concepts related to the teaching and learning of reading;*

(iv) *Selection, evaluation, and use of materials in all formats to meet student curriculum and instructional needs;*

(v) *Access and delivery of information, including reference and bibliographic systems in all formats;*

(vi) *Organization of knowledge, including cataloging and classification, and information retrieval in all formats;*

(vii) *Principles of communication, including dissemination and use of information in all formats; and*

(viii) *The design, creation, and implementation of library media in all formats for instructional use.*

(c) *Professional education coursework shall include:*

(i) *History and philosophy of education;*

(ii) *Student developmental levels, learning theory, and strategies for identifying student information and learning needs;*

(iii) *Theory, principles, and methods of instructional design and delivery; and*

(iv) *Inclusion of special needs student populations.*

(d) *The professional education coursework listed in §B(5)(b) of this regulation may be met by course credits earned in addition to, or as part of, the undergraduate degree program. The total number of post-baccalaureate credits needed for licensure may not be reduced for course requirements that are met in the applicant's bachelor's degree program. Additional post-baccalaureate or graduate courses may be substituted.*

(e) *An applicant shall satisfactorily complete a school library media practicum, 1 year of full-time teaching experience, or 1 year of full-time school library media-related experience.*

C. Special education coursework. In addition to meeting one of the pathways in §B of this regulation, the applicant must present 3 semester hours or State-approved CPD credits in special education coursework.

.05 Pupil Personnel Worker.

The requirements for licensure as a pupil personnel worker are that the applicant shall have:

A. A master's degree from an institution of higher education in pupil personnel or a related field, such as:

(1) *Counseling or guidance services, or both;*

- (2) Early childhood, elementary, or secondary education;
- (3) Human growth and development;
- (4) Sociology, social work, or psychology;
- (5) Special education; or
- (6) Administration and supervision;

B. In addition to or as part of §A of this regulation, 21 semester hours of graduate credit or State-approved CPDs, to include school law and at least 6 of the following seven areas:

- (1) Counseling methods;
- (2) Early childhood or adolescent psychology, or both;
- (3) Multicultural issues;
- (4) Family systems/dynamics;
- (5) Delivery of pupil personnel services and programs;
- (6) Abnormal psychology or juvenile delinquency, or both; or
- (7) Educational assessment interpretation;

C. 3 years of effective teaching experience, or, at the recommendation of a local superintendent of schools, related experience may be substituted for teaching experience; and

D. 3 semester hours of credit or State-approved CPDs in inclusion of special needs student populations.

.06 Reading Specialist.

The requirements for certification as a reading specialist are that the applicant shall:

A. Meet the requirements for licensure in early childhood education, elementary education, special education, or a secondary education area;

B. Submit verification of 3 years of effective teaching or clinical experience;

C. Complete 3 semester hours or State-approved CPD credits in special education coursework; and

D. Complete the requirements of one of the following pathways:

(1) Maryland Approved Program. Candidates who possess a master's degree and complete a program approved under COMAR 13A.07.06 leading to licensure as a reading specialist;

(2) Out-of-State Preparation Program. Candidates who possess a master's degree and complete an approved program leading to licensure as a reading specialist in another state; or

(3) Professional Coursework. Candidates who possess a master's degree or equivalent of 33 post-baccalaureate credits from an institution of higher education in reading and related areas to include:

(a) 15 semester hours of reading coursework with at least one course in each of the following areas:

- (i) Foundation or survey course;
- (ii) Diagnosis and correction of reading difficulties;
- (iii) Clinical or laboratory practicum;
- (iv) Assessment or evaluation, or both; and
- (v) Methods in the teaching of reading to English language learners; and

(b) Additional coursework selected from at least four of the following areas:

- (i) Emergent literacy;
- (ii) Literacy Leadership;
- (iii) Content area literacy;
- (iv) Writing;
- (v) Effective use of technology in the literacy classroom;
- (vi) Early Childhood, Elementary, or Adolescent literacy;
- (vii) Literacy research; and
- (viii) Linguistics.

E. Special Provision.

(1) An applicant who satisfies the requirements of §A of this regulation by presenting a teaching license in a secondary education area shall demonstrate proficiency in the knowledge and practices of scientific reading instruction, to include phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(2) Demonstration of proficiency may be satisfied by submitting one of the following:

- (a) A passing score on a reading instruction test approved by the State Board of Education;
- (b) Completion of coursework or professional learning approved by the Department; or
- (c) Submission of attestation of proficiency through observation completed by a Department-recognized assessor; or
- (d) Completion of training provided by the Department in the science of reading.

.07 Reading Teacher.

A. Requirements for Licensure. The requirements for licensure as a reading teacher are that the applicant shall:

(1) Meet the requirements for licensure in early childhood education, elementary education, or a secondary education area;

(2) Complete 3 semester hours or State-approved CPD credits in special education coursework;

(3) Have 12 semester hours of post-baccalaureate graduate credit from an institution of higher education in reading, including a foundation or survey course and a course in diagnosis and correction of reading difficulties; and

(4) Have 2 years of successful teaching experience.

B. Special Provision.

(1) An applicant who satisfies the requirements of §A(1) of this regulation by presenting a teaching license in a secondary education area shall demonstrate proficiency in the knowledge and practices of scientific reading instruction, to include phonemic awareness, phonics, fluency,

vocabulary, and comprehension.

(2) Demonstration of proficiency may be satisfied by submitting one of the following:

- (a) A passing score on a reading instruction test approved by the State Board of Education;
- (b) Completion of coursework or professional learning approved by the Department; or
- (c) Submission of attestation of proficiency through observation completed by a Department-recognized assessor; or
- (d) Completion of training provided by the Department in the science of reading.

.08 Psychometrist.

A. Definition.

(1) In this chapter, the following term has the meaning indicated.

(2) *Term Defined.* "Psychometrist" means an individual who works directly under the professional supervision of a school psychologist or supervisor of school psychological services. The purpose of this position is limited to providing assistance to the school psychologist by administering psychological tests and other related psychometric tasks.

B. Education. An applicant for licensure as a psychometrist shall have the following:

(1) A master's degree from an institution of higher education in psychology or education.

(2) 45 semester hours of graduate and undergraduate coursework from an institution of higher education that shall include the following areas:

- (a) Tests and measurements;
- (b) Individual intelligence testing of children;
- (c) Individual educational assessment of children, reading assessment, curriculum-based assessment;
- (d) Assessment of personality (including social, emotional, and behavioral assessment of children);
- (e) Practicum in psychological testing of children;
- (f) Developmental psychology child and adolescent psychology;
- (g) Statistics/research methods, research design;
- (h) Personality theory;
- (i) Learning process/theory;
- (j) Abnormal psychology, psychopathology;
- (k) Educational psychology;
- (l) Curriculum and instruction;
- (m) Intervention techniques, consultation, counseling;
- (n) Social bases of behavior, social psychology, multicultural psychology; and
- (o) Physiological and neurological bases of behavior.

(3) Coursework required in §B(2)(a), (h)—(l), and (n) of this regulation may be taken at the undergraduate level.

(4) 3 semester hours or State-approved CPD credits in special education coursework.

C. Experience. An applicant demonstrating compliance with the experience requirements for licensure as a psychometrist shall comply with the following:

(1) Option I.

(a) 500 clock hours of field experience in school psychology which is approved by and under the direction of an institution of higher education that has an approved program in psychology.

(b) The applicant shall ensure that field experience includes experience in regular and special education programs and emphasizes assessment.

(c) The applicant shall ensure that field supervision occurs under an individual licensed as a school psychologist.

(2) Option II.

(a) 2 years of successful experience of at least 600 clock hours per year providing psychometric services to children in an educational setting under the supervision of an individual licensed as a school psychologist.

(b) The supervision requirement may be waived if an applicant has previously provided these services as a licensed psychologist.

.09 School Psychologist.

A. Definition. "School psychologist" means an individual who is licensed to provide psychological services to children in a public or State-approved nonpublic school setting and supervises interns and psychometrists.

B. Education. An applicant for licensure as a school psychologist shall:

(1) Complete 3 semester hours or State-approved CPD credits in special education coursework; and

(2) Complete one of the following pathways to licensure:

(a) Option I:

- (i) Submit a master's degree or higher in school psychology from a Maryland-approved program; and
- (ii) Qualifying scores on the Maryland-approved test for school psychologist.

(b) Option II:

(i) Submit a master's degree or higher and complete an out-of-State-approved program in school psychology, culminating a minimum of a 1,200-hour internship in school psychology; and

(ii) Submit qualifying scores on the Maryland-approved test for school psychologist.

(c) *Option III:* Submit a valid Nationally Certified School Psychologist certificate issued by the National School Psychology Certification Board.

(d) Option IV:

(i) Submit a master's degree or higher from an institution of higher education; and

(ii) Submit a valid professional license in school psychology from another state and verification of at least 27 months of effective performance as a school psychologist during the past 7 years, on the basis of which application is being made for a comparable Maryland

license.

.10 Therapists (Occupational Therapists, Physical Therapists, Speech-Language Pathologists, or Audiologists).

A. The Department shall consider an occupational therapist, physical therapist, speech-language pathologist, or audiologist holding a valid license issued by the State Board of Occupational Therapy Practice, the State Board of Physical Therapy Examiners, or the State Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists, in accordance with the relevant provisions of the Health Occupations Article, Annotated Code of Maryland as professionally licensed.

B. This individual does not require an additional educator license.

.11 School Social Worker.

To obtain educator licensure as a school social worker, the applicant shall:

A. Be licensed by the Maryland State Board of Social Work Examiners as a:

- (1) Masters Social Worker;
- (2) Certified Social Worker; or
- (3) Certified Social Worker — Clinical.

B. Complete 3 semester hours or State-approved CPD credits in special education coursework.

.12 Gifted and Talented Education Specialist.

To be licensed as a Gifted and Talented Education Specialist, an applicant shall:

A. Complete one of the following:

- (1) A Department-approved master's program that leads to licensure in Gifted and Talented Education;
- (2) An out-of-State approved master's program that leads to Gifted and Talented licensure; or
- (3) Approved coursework.

(a) Complete 15 semester hours of graduate coursework in Gifted and Talented Education from an institution of higher education, which includes a balance of content in the following competencies:

- (i) Understanding the foundations of gifted education, including historical perspectives, key philosophies and theories, social, cultural, and economic influences, key issues, and trends;
- (ii) Understanding the unique cognitive and affective characteristics of gifted and talented students, including the learning differences of gifted and talented students with disabilities and those from diverse backgrounds;
- (iii) Understanding processes and procedures for the identification of gifted and talented students, including the use of equitable approaches for identifying gifted and talented students from diverse backgrounds and those with disabilities;
- (iv) Understanding evidence-based instructional strategies for differentiating instruction for gifted and talented students, including strategies that enhance acquisition of knowledge and skills in specific domains, critical and creative thinking, problem solving, and metacognition;

(v) Understanding theories and models for developing and implementing curriculum, instruction, and assessments for gifted and talented students; and

(vi) Understanding how to create learning environments that foster the social and emotional well-being of gifted and talented students, including the development of self-awareness, coping skills, positive peer relationships, and leadership; and

(b) Complete at least 3 semester hours in a clinical/laboratory internship;

B. Complete 3 semester hours or State-approved CPD credits in special education coursework; and

C. Present verification of 27 months of effective teaching experience or clinical experience.

.13 Renewal and Advancement of a Specialist License.

A. General.

(1) An applicant who holds a license is responsible for initiating the renewal of the license.

(2) An applicant shall ensure renewal requirements are received before the expiration date of the license to be considered continuous.

(3) Failure to Meet Requirements. Failure to meet the requirements of this section results in nonrenewal of the license.

(4) Advancement to a New License. An applicant may apply to advance to the next level of licensure by meeting the requirements under §.02A of this chapter.

B. Professional Development Requirements. The Initial Professional, Professional, and Advanced Professional License may be renewed for successive 5-year terms upon the successful completion of the requisite number of professional development points (PDPs) as set forth in Regulation .15 of this chapter based on an individual professional development plan as set forth in Regulation .14 of this chapter that is designed to improve student learning and that is approved, if required, by the educator's supervisor.

C. Application Process.

(1) Renewal. An educator may renew their existing Initial Professional, Professional, or Advanced Professional License by submitting:

(a) A completed application, in the manner required by the Department;

(b) A statement, signed under the penalty of perjury, that the applicant has completed all requirements for licensure renewal, including the requisite number of Professional Development Points under an Individual Professional Development Plan; and

(c) The required fee.

(2) Advancement. An educator may request advancement to a new level of licensure by submitting:

(a) A completed application, in the manner required by the Department;

(b) Supporting documentation demonstrating the applicant has met the requirements for the new level of licensure; and

(c) The required fee.

(3) All documentation submitted is subject to audit by the Department, and the educator shall provide additional documentation to the Department on request.

(4) *Individuals employed by a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10, may submit documentation directly to the employer.*

(5) *Individuals who are not employed by a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall submit documentation directly to the Department.*

D. Renewal Requirements that May Not Be Waived. School counselors shall present 1 semester hour of coursework from an institution of higher education, one Department-approved continuing professional development credit; or an equivalent number of continuing education units that address the following:

(1) *Depression;*

(2) *Trauma;*

(3) *Violence;*

(4) *Youth suicide;*

(5) *Substance Abuse; and*

(6) *The identification of professional resources and best practices for distributing resources to parents or guardians to help students in crisis.*

.14 Individual Professional Development Plans.

A. Individual Professional Development Plans.

(1) *An educator shall have an individual professional development plan in place for each of the 5 years of validity for each Initial Professional, Professional, and Advanced Professional license issued to the educator.*

(2) *An individual professional development plan shall include a minimum of 90 professional development points, as set forth in Regulation .15 of this chapter, to renew the educator's License.*

(3) *Educators who are not employed with a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 are responsible for developing their own individual professional development plan.*

B. Approval of an Individual Professional Development Plan.

(1) *Educators working in a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall obtain approval of their proposed individual professional development plan from their supervisors.*

(2) *The educator's supervisor, or an appropriate designee, shall approve proposed individual professional development plans.*

(3) *Educators shall obtain initial approval of their individual professional development plan within 6 months of issuance of the license to be renewed.*

(4) *Supervisor Review.*

(a) *A supervisor shall review the existing individual professional development plan of any educator new to the district or school within 3 months of the educator's beginning employment in the new position.*

(b) *A supervisor may require an educator to amend the plan or may withdraw approval for a plan that had been previously approved, but the Department shall approve any professional development points that were earned consistently with an approved plan in the application for license renewal.*

(5) *Signatures.*

(a) *Before applying to renew an Initial Professional, Professional, or Advanced Professional license, educators shall obtain a signature from a current supervisor.*

(b) *A supervisor's signature shall indicate that the supervisor has reviewed the log of professional development activities maintained by the educator to ensure that the reported activities are consistent with the approved individual professional development plan.*

(c) *The educator remains responsible for the final accounting of professional development points applied towards license renewal.*

(d) *An educator whose supervisor refuses to sign an Individual professional development plan may follow the review procedures set forth in §B(7) of this regulation.*

(6) *Approval of an individual professional development plan may not be unreasonably withheld by a supervisor.*

(7) *If a plan is rejected by a supervisor, an educator may seek review of the denial from:*

(a) *The superintendent of schools, or designee, if employed with a local school system;*

(b) *The Chief Officer of the Legal Authority, or designee, if employed with a nonpublic school approved under COMAR 13A.09.10; or*

(c) *The Executive Director, or comparable position, if employed with a State-operated school.*

.15 Professional Development Points.

A. Professional Development Point (PDP).

(1) *1 clock hour is equivalent to one PDP.*

(2) *1 semester hour is equivalent to 15 PDPs.*

(3) *One Department-approved continuing professional development credit is equivalent to 15 PDPs.*

(4) *One continuing education unit is equivalent to ten PDPs.*

B. Educators applying to renew an Initial Professional, Professional, or Advanced Professional License shall complete a minimum of 90 PDPs to include:

(1) *Content or pedagogy related to an area on the educator's license;*

(2) *English as a Second Language, Sheltered English, or Bilingual Education;*

(3) *Strategies for teaching students with disabilities, or differentiated instruction for students with diverse learning needs; and*

(4) *Culturally Responsive Teaching or diverse student identities in education.*

C. Additional Requirements for Specific Certification Areas.

(1) *Blind/Visually Impaired. Teachers who hold a license in the area of the Blind/Visually Impaired shall present a minimum of 15 PDPs in braille maintenance.*

(2) *School Counselor. An educator who is licensed as a School Counselor shall present 1 semester hour of coursework from an Institution of Higher Education, one Department-approved continuing professional development credit; or an equivalent number of continuing education*

units that address the following:

- (a) Depression;
- (b) Trauma;
- (c) Violence;
- (d) Youth suicide;
- (e) Substance abuse; and
- (f) The identification of professional resources and best practices for distributing resources to parents or guardians to help students in crisis.

(3) Administrator. If an educator is employed in a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 and assigned in an administrator or supervisor position, the educator shall submit PDPs which include:

- (a) Strategies for increasing teacher retention; and
- (b) Strategies for developing and facilitating teacher leadership.

D. Professional development points may be accrued by the completion of one or more of the following:

- (1) College credit earned or taught at an accredited institution of higher education.
 - (2) Continuing professional development (CPD) credits, earned or taught, approved by the Department.
 - (3) Continuing education units (CEUs) from an accredited International Association for Continuing Education and Training provider or approved by another Maryland State agency for purposes of licensure.
 - (4) Professional conference. A professional conference is a workshop, institute, or seminar of 4 or more hours that contributes to ongoing, sustained, and high-quality professional development.
 - (5) Curriculum Development.
 - (a) Curriculum development is a group activity in which the license holder contributes to the improvement of the curriculum of a school, a school division, or an educational institution.
 - (b) This includes the alignment of curriculum frameworks, instructional materials, and assessments to provide a system with clear expectations of what is to be taught and learned.
 - (c) For each curriculum developed, the Department shall award the educator up to 30 PDPs.
 - (6) Publication of a Book or Article.
 - (a) The license holder shall ensure that the book or article contributes to the education profession or to the body of knowledge of the license holder's teaching area or instructional position.
 - (b) The educator shall ensure that an article is published in a recognized professional journal.
 - (c) The educator shall ensure that books are published for purchase.
 - (d) For each book published, the Department shall award the educator up to 75 PDPs. For each article published, the Department shall award the educator up to 10 PDPs.
 - (7) Mentorship.
 - (a) Mentoring is the process by which an experienced professional who has received mentorship training helps one or more individuals to improve their performance.
 - (b) Assistance may involve role modeling, direct instruction, demonstration, observation with feedback, developing of plans, and consultation to promote instructional excellence and increased student achievement.
 - (c) Mentoring may include the supervision of a field experience of a pre-service student teacher or an intern in an approved teacher preparation program, as well as mentoring as part of the induction process for a beginning teacher.
 - (8) Micro-Credentials.
 - (a) Micro-credentials are a digital form of certification indicating demonstrated competency/mastery in a specific skill or set of skills.
 - (b) Educators identify a competency they want to develop, submit evidence that they have mastered the competency, and receive a digital badge once the evidence is approved.
 - (c) Micro-credentials can be earned by non-profit and for-profit entities approved by the local school system, State-operated school, nonpublic school, or the Department.
 - (d) For each micro-credential earned, the Department shall award the educator up to 10 PDPs.
 - (9) Professional Development Activity.
 - (a) The Department shall accept professional development activities approved by the Department, Maryland local school system, State Agency, a Maryland approved nonpublic school, or another state department of education.
 - (b) The license holder shall ensure that each activity is a minimum of 1 contact hour.
- E. An educator who earns a National Board Certificate from the National Board of Professional Teaching Standards may present that certificate when subsequently renewing a Maryland Educator License as a substitute for §B of this regulation.

13A.12.05 Administrators and Supervisors

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03, and 8-701—8-708, Annotated Code of Maryland

.01 Purpose.

Administrators and supervisors who have direct contact with students, who have responsibility for curriculum development, or who have responsibility for supervision of instruction shall meet the requirements for a license under COMAR 13A.12.05, as applicable.

.02 Licenses for Administrators and Supervisors.

A. Types of Administrator/Supervisor Licenses.

(1) Initial Professional.

(a) The Initial Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .15 of this chapter.

(b) An applicant who has met the requirements of one of the pathways to licensure under Regulations .03—.12 of this chapter is eligible for an Initial Professional License.

(2) Professional.

(a) The Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .15 of this chapter.

(b) An applicant who has met the requirements of one of the pathways to licensure under Regulations .03—.12 of this chapter is eligible for a Professional License if the applicant submits documentation:

- (i) Verifying 3 years of effective administrative or supervisory performance; and
- (ii) Demonstrating completion of a Maryland induction program, if applicable.

(3) Advanced Professional.

(a) The Advanced Professional License is valid for 5 years and may be renewed should the license holder meet the renewal requirements under Regulation .13 of this chapter.

(b) An applicant who has met the requirements of one of the pathways to licensure under this chapter is eligible for an Advanced Professional License if the applicant meets the requirements for the Professional License under §A(2) of this regulation and submits documentation that the applicant has:

- (i) A master's degree or higher;
- (ii) At least 30 semester hours of post baccalaureate credit; or
- (iii) A National Board Certificate issued by the National Board for Professional Teaching Standards.

B. The Department shall evaluate credits from institutions in other countries for comparability of degree and coursework by an independent agency authorized to analyze foreign credentials and designated by the Department. The evaluation is conclusive for the Department.

.03 Supportive Services Personnel.

A. Purpose. The State Superintendent of Schools may license as Supportive Services Personnel a qualified employee of a local school system who is assigned to administrative or supervisory responsibilities not otherwise covered in these regulations, and who has responsibilities comparable to those assigned to individuals who hold specific supervisory licenses.

B. Education. An applicant for licensure as Supportive Services Personnel shall have a bachelor's degree or higher appropriate to the area of responsibility from an institution of higher education.

C. This license is issued at the request of a local school, State-operated school, or nonpublic school approved under COMAR 13A.09.10.

.04 Superintendents.

A. Superintendent I.

(1) This license qualifies an individual to be assigned as a county deputy superintendent, assistant superintendent or associate superintendent through either Traditional or Reciprocal Licensure.

(2) An applicant for Traditional Licensure shall meet the education and experience requirements.

(3) Education Requirements for Traditional Licensure. The applicant shall have:

- (a) A master's degree from an institution of higher education;
- (b) Completed one of the following:
 - (i) A Department-approved program which leads to licensure as a superintendent;
 - (ii) A program offered by an institution of higher education leading to licensure as a superintendent in the state in which the institution is located; or
 - (iii) 45 semester hours of graduate coursework, including a minimum of 15 semester hours in education administration taken at an institution of higher education. Graduate coursework earned under §A(3)(a) of this regulation may be applied toward the 45 required semester hours; and
- (c) 3 semester hours or State-approved CPD credits in special education coursework.

(4) Experience Requirements for Traditional Licensure. The applicant shall have:

- (a) 27 months of effective teaching performance or effective performance as a licensed specialist as defined in COMAR 13A.12.03 in a pre-kindergarten—12 setting; and
 - (b) 24 months of effective administrative or supervisory experience in a pre-kindergarten—12 setting.
- (5) Requirements for Reciprocal Licensure. A deputy, associate, or assistant superintendent who enters Maryland from another state may obtain a Superintendent I license if that individual:
- (a) Holds a valid professional state license in a like or comparable area;
 - (b) Presents verification of at least 36 months of effective performance as a deputy, associate, or assistant superintendent during the past 7 years; and
 - (c) Completes 3 semester hours or State-approved CPD credits in special education coursework.

B. Superintendent II.

(1) This license qualifies an individual to be a county superintendent through either Traditional or Reciprocal Licensure.

(2) An applicant for Traditional Licensure shall meet the education and experience requirements.

(3) Education Requirements for Traditional Licensure. The applicant shall have:

- (a) A master's degree from an institution of higher education;
- (b) Have completed one of the following:
 - (i) A Department-approved program which leads to licensure as a superintendent to include coursework covering public school administration, supervision, and methods of teaching;
 - (ii) A program offered by an institution of higher education leading to licensure as a superintendent in the state in which the institution is located to include coursework covering public school administration, supervision, and methods of teaching; or
 - (iii) 60 semester hours of graduate coursework, including a minimum of 24 semester hours in education administration taken at an institution of higher education, to include public school administration, supervision, and methods of teaching. Graduate coursework earned

under §B(3)(a) of this regulation may be applied toward the 60 required semester hours; and

(c) 3 semester hours or State-approved CPD credits in special education coursework.

(4) *Experience Requirements for Traditional Licensure.* The applicant shall have:

(a) 27 months of effective teaching performance or effective performance as a licensed specialist as defined in COMAR 13A.12.03 in a pre-kindergarten—12 setting; and

(b) 24 months of effective administrative or supervisory experience in a pre-kindergarten—12 setting.

(5) *Requirements for Reciprocal Licensure.* A superintendent who enters Maryland from another state may obtain a Superintendent II license if that individual:

(a) Holds a valid professional state license in a like or comparable area;

(b) Presents verification of at least 36 months of effective performance as a superintendent during the past 7 years;

(c) Presents verification of 2 years of graduate work at an institution of higher education, to include coursework covering public school administration, supervision, and methods of teaching; and

(d) Completes 3 semester hours or State-approved CPD credits in special education coursework.

.05 Supervisors of Instruction, Assistant Principals, and Principals.

A. Application of Regulation.

(1) This regulation applies to obtaining licensure as an Administrator I or Administrator II.

(2) If a principal transfers to become a principal in a special education school, the principal shall hold a Supervisor of Special Education license as set forth in Regulation .10 of this chapter.

B. Administrator I.

(1) This license qualifies an individual to be assigned as a supervisor of instruction or assistant principal.

(2) The applicant shall have:

(a) A master's degree from an institution of higher education;

(b) 27 months of effective teaching performance or effective performance as a certified specialist as defined in COMAR 13A.12.04;

(c) 3 semester hours or State-approved CPD credits in special education coursework; and

(3) Completed one of the following:

(a) A Department-approved program which leads to licensure as a supervisor of instruction, assistant principal, or principal;

(b) An approved out-of-State program which leads to licensure as a supervisor of instruction, assistant principal, or principal and includes a supervised clinical practicum; or

(c) 18 semester hours of graduate coursework taken at an institution of higher education at the post-baccalaureate level, to include a balance of content in the following categories:

(i) Curriculum, instruction, and assessment;

(ii) Development, observation, and evaluation of staff;

(iii) Legal issues and ethical decision-making;

(iv) School leadership, management and administration; and

(v) Practicum, internship, or a collaboratively designed and supervised experience by the local school system and institution of higher education, to include Department-approved instructional leadership outcomes with verification of this experience submitted by the applicant.

C. Administrator II.

(1) This license qualifies an individual to be assigned as a school principal.

(2) The applicant, before initial appointment as principal, shall:

(a) Complete the requirements for Administrator I; and

(b) Present evidence of a qualifying score as established by the State Board on a Department-approved principal licensure assessment.

(3) A principal who enters Maryland from another state may obtain an Administrator II license if that principal held a valid professional state license and verification of at least 27 months of effective performance as a principal.

.06 Library Media Administrator.

A. Definition.

(1) In this regulation, the following term has the meaning indicated.

(2) *Term Defined.* "Library media administrator" means an individual designated by the local superintendent of schools as having responsibility for the:

(a) Administration and supervision of the library media program, including the supervision of the library media program in the individual schools; and

(b) Development of policies, programs, budgets, and procedures for the library media services of the school system and its schools.

B. Education and Experience. To be licensed as library media administrator, the applicant shall:

(1) Meet the requirements for licensure as a library media specialist;

(2) Have a master's degree from an institution of higher education;

(3) Have 3 years of effective library media program experience;

(4) Complete 3 semester hours or State-approved CPD credits in special education coursework; and

(5) Complete one of the options listed under Regulation .05 of this chapter that would lead to certification as Administrator I.

C. Special Provision. An applicant seeking to satisfy the requirements of §B(3) of this regulation may, at the recommendation of the local school superintendent, substitute 2 years of related effective experience for 2 years of library media program experience.

.07 Supervisor of School Counseling.

The requirements for certification as a supervisor of school counseling are that the applicant shall:

A. Meet the requirements for licensure as a school counselor;

- B. Have 3 years of effective performance as a school counselor;
- C. Complete 3 semester hours or State-approved CPD credits in special education coursework; and
- D. Have 12 semester hours of graduate credit from an institution of higher education in any of the following areas, with at least 6 semester hours in school supervision or school administration:

- (1) Management;
- (2) School supervision;
- (3) School administration;
- (4) Program development; or
- (5) Program evaluation.

.08 Supervisor of School Psychological Services.

The requirements for licensure as a supervisor of school psychological services are that the applicant shall:

- A. Meet the requirements for licensure as a school psychologist under COMAR 13A.12.03.07;
- B. Have a doctoral degree:
 - (1) From a state or accredited school psychology program, a national educator preparation accreditation organization, National Association of School Psychologists, or American Psychological Association accredited school psychology program; or
 - (2) In psychology or education or human development;
- C. As part of or in addition to §B of this regulation, have 9 semester hours of graduate credits including 3 semester hours in school law and 6 semester hours in supervision, management, or administration of schools;
- D. Have 3 years of experience as a school psychologist under COMAR 13A.12.04.09; and
- E. Complete 3 semester hours or State-approved CPD credits in special education coursework.

.09 Supervisor of Pupil Personnel.

The requirements for licensure as a supervisor of pupil personnel are that the applicant shall:

- A. Meet the requirements for licensure as a pupil personnel worker;
- B. Have a master's degree from an institution of higher education;
- C. As part of or in addition to §B of this regulation, have a graduate course in the area of administration and supervision;
- D. Complete 3 semester hours or State-approved CPD credits in special education coursework; and
- E. Have 3 years of successful teaching experience. At the recommendation of the local superintendent of schools, related experience may be substituted for teaching experience.

.10 Supervisor of Special Education.

A. Principal Public Separate School. The requirements for certification as a principal in a public separate school are that the applicant shall:

- (1) Meet the requirements for licensure in special education; and
- (2) Meet the requirements for licensure as an Administrator II.

B. Supervisor of Special Education (Sole Assignment). The requirements for licensure as a supervisor of special education are that the applicant shall:

- (1) Meet the requirements for licensure in special education; and
- (2) Meet the requirements for licensure as an Administrator I.

C. Special Provision. Supervisors with multiple area assignments shall meet the requirements set forth in Regulation .05 of this chapter.

.11 Supervisor of Speech Pathologists and Audiologists.

The requirements for a license as a supervisor of speech pathology and audiology are that the applicant shall:

- A. Meet the requirements for certification or licensure as otherwise provided in Health Occupations Article, §2-301, Annotated Code of Maryland, as a speech pathologist or audiologist;
- B. Have a master's degree from an institution with an approved program when graduating with at least one course in administrative and supervisory techniques and one course in the development of school curriculum;
- C. Complete 3 semester hours or State-approved CPD credits in special education coursework; and
- D. Have 4 years full-time paid experience or its equivalent as a speech and hearing clinician, 2 years of which shall have been in a school setting.

.12 Supervisor of Teachers of Deaf and Hard of Hearing.

The requirements for licensure as a supervisor of teachers of the deaf and hard of hearing are that the applicant shall:

- A. Meet the requirements for licensure as a teacher of the deaf and hard of hearing;
- B. Have a master's degree from an institution of higher education, with at least one course in administrative and supervisory techniques and one course in curriculum development;
- C. Complete 3 semester hours or State-approved CPD credits in special education coursework; and
- D. Have experience that includes:
 - (1) 3 years of successful teaching experience with the deaf and hard of hearing; or
 - (2) 4 years paid experience or its equivalent in a school setting with 2 years successful teaching experience with the deaf and hard of hearing.

.13 Renewal and Advancement of an Administrator/Supervisor License.

A. General.

- (1) An applicant who holds a license is responsible for initiating the renewal of the license.
- (2) An applicant shall ensure renewal requirements are received before the expiration date of the license to be considered continuous.

(3) *Failure to Meet Requirements.* Failure to meet the requirements of this section results in nonrenewal of the license.

(4) *Advancement to a New License.* An applicant may apply to advance to the next level of licensure by meeting the requirements under §.02A of this chapter.

B. Professional Development Requirements. The Initial Professional, Professional, and Advanced Professional License may be renewed for successive 5-year terms on the successful completion of the requisite number of professional development points (PDPs) as set forth in Regulation .15 of this chapter based on an individual professional development plan as set forth in Regulation .14 of this chapter that is designed to improve student learning and that is approved, if required, by the educator's supervisor.

C. Application Process.

(1) *Renewal.* An educator may renew their existing Initial Professional, Professional, or Advanced Professional License by submitting:

(a) A completed application, in the manner required by the Department;

(b) The required fee; and

(c) A statement, signed under the penalty of perjury, that the applicant has completed all requirements for licensure renewal, including the requisite number of Professional Development Points under an Individual Professional Development Plan.

(2) *Advancement.* An educator may request advancement to a new level of licensure by submitting:

(a) A completed application, in the manner prescribed by the Department;

(b) Supporting documentation demonstrating the applicant has met the requirements for the new level of licensure; and

(c) The required fee.

(3) All documentation submitted is subject to audit by the Department, and the educator shall provide additional documentation to the Department on request.

.14 Individual Professional Development Plans.

A. Individual Professional Development Plans.

(1) An educator shall have an individual professional development plan in place for each of the 5 years of validity for each Initial Professional, Professional, and Advanced Professional license issued to the educator.

(2) An individual professional development plan shall include a minimum of 90 professional development points, as set forth in Regulation .15 of this chapter, to renew the educator's license.

(3) Educators who are not employed with a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 are responsible for developing their own individual professional development plan.

B. Approval of an Individual Professional Development Plan.

(1) Educators working in a Maryland local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 shall obtain approval of their proposed individual professional development plan from their supervisors.

(2) The educator's supervisor, or an appropriate designee, shall approve proposed individual professional development plans.

(3) Educators shall obtain initial approval of their individual professional development plan within 6 months of issuance of the license to be renewed.

(4) *Supervisor Review.*

(a) A supervisor shall review the existing individual professional development plan of any educator new to the district or school within 3 months of the educator's beginning employment in the new position.

(b) A supervisor may require an educator to amend the plan or may withdraw approval for a plan that had been previously approved, but the Department shall approve any professional development points that were earned consistently with an approved plan in the application for license renewal.

(5) *Signatures.*

(a) Before applying to renew an Initial Professional or Professional license, educators shall obtain a signature from a current supervisor.

(b) A supervisor's signature shall indicate that the supervisor has reviewed the log of professional development activities maintained by the educator to ensure that the reported activities are consistent with the approved individual professional development plan.

(c) The educator remains responsible for the final accounting of professional development points applied towards license renewal.

(d) An educator whose supervisor refuses to sign an individual professional development plan may follow the review procedures set forth in §B(7) of this regulation.

(6) Approval of an individual professional development plan may not be unreasonably withheld by a supervisor.

(7) If a plan is rejected by a supervisor, an educator may seek review of the denial from:

(a) The superintendent of schools, or designee, if employed with a local school system;

(b) The Chief Officer of the Legal Authority, or designee, if employed with a nonpublic school approved under COMAR 13A.09.10; or

(c) The Executive Director, or comparable position, if employed with a State-operated school.

.15 Professional Development Points.

A. Professional Development Point (PDP). The Department shall measure professional development activities as follows:

(1) 1 clock hour is equivalent to one PDP.

(2) 1 semester hour is equivalent to 15 PDPs.

(3) One Department-approved continuing professional development credit is equivalent to 15 PDPs.

(4) One continuing education unit is equivalent to ten PDPs.

B. Educators applying to renew an Initial Professional, Professional, or Advanced Professional License shall complete a minimum of 90 PDPs to include:

(1) Content or pedagogy related to an area on the educator's license;

(2) English as a Second Language, Sheltered English, or Bilingual Education;

(3) Strategies for teaching students with disabilities, or differentiated instruction for students with diverse learning needs; and

(4) Culturally Responsive Teaching or diverse student identities in education.

C. Additional Requirements for Specific Certification Areas.

(1) *Blind/Visually Impaired.* Teachers who hold a license in the area of the *Blind/Visually Impaired* shall present a minimum of 15 PDPs in braille maintenance.

(2) *School Counselor.* An educator who is licensed as a *School Counselor* shall present 1 semester hour of coursework from an institution of higher education, one Department-approved continuing professional development credit; or an equivalent number of continuing education units that address the following:

(a) *Depression;*

(b) *Trauma;*

(c) *Violence;*

(d) *Youth suicide;*

(e) *Substance abuse; and*

(f) *The identification of professional resources and best practices for distributing resources to parents or guardians to help students in crisis.*

(3) *Administrator.* If an educator is employed in a local school system, State-operated school, or nonpublic school approved under COMAR 13A.09.10 and assigned in an administrator or supervisor position, the educator shall submit PDPs which include:

(a) *Strategies for increasing teacher retention; and*

(b) *Strategies for developing and facilitating teacher leadership.*

D. Professional development points may be accrued by the completion of one of more of the following:

(1) *College credit earned or taught at an accredited institution of higher education.*

(2) *Continuing professional development (CPD) credits, earned or taught, approved by the Department.*

(3) *Continuing education units (CEUs) from an accredited International Association for Continuing Education and Training provider or approved by another Maryland State agency for purposes of licensure.*

(4) *Professional conference.* A professional conference is a workshop, institute, or seminar of 4 or more hours that contributes to ongoing, sustained, and high-quality professional development.

(5) *Curriculum Development.*

(a) *Curriculum development is a group activity in which the license holder contributes to the improvement of the curriculum of a school, a school division, or an educational institution.*

(b) *This includes the alignment of curriculum frameworks, instructional materials, and assessments to provide a system with clear expectations of what is to be taught and learned.*

(c) *For each curriculum developed, the Department shall award the educator up to 30 PDPs.*

(6) *Publication of a Book or Article.*

(a) *The license holder shall ensure that the book or article contributes to the education profession or to the body of knowledge of the license holder's teaching area or instructional position.*

(b) *The educator shall ensure that an article is in a recognized professional journal.*

(c) *The educator shall ensure that books are published for purchase.*

(d) *For each book published, the Department shall award the educator up to 75 PDPs. For each article published, the Department shall award the educator up to 10 PDPs.*

(7) *Mentorship.*

(a) *Mentoring is the process by which an experienced professional who has received mentorship training helps one or more individuals to improve their performance.*

(b) *Assistance may involve role modeling, direct instruction, demonstration, observation with feedback, developing of plans, and consultation to promote instructional excellence and increased student achievement.*

(c) *Mentoring may include the supervision of a field experience of a pre-service student teacher or an intern in an approved teacher preparation program, as well as mentoring as part of the induction process for a beginning teacher.*

(8) *Micro-Credentials.*

(a) *Micro-credentials are a digital form of certification indicating demonstrated competency/mastery in a specific skill or set of skills.*

(b) *Educators identify a competency they want to develop, submit evidence that they have mastered the competency, and receive a digital badge once the evidence is approved.*

(c) *Micro-credentials can be earned by non-profit and for-profit entities approved by the local school system, State-operated school, nonpublic school, or the Department.*

(d) *For each micro-credential earned, the Department shall award the educator up to 10 PDPs.*

(9) *Professional Development Activity.*

(a) *The Department shall accept professional development activities approved by the Department, Maryland local school system, State Agency, a Maryland approved nonpublic school, or another state department of education.*

(b) *The license holder shall ensure that each activity is a minimum of 1 contact hour.*

E. An educator who earns a National Board Certificate from the National Board of Professional Teaching Standards may present that certificate when subsequently renewing a Maryland Educator License as a substitute for §B of this regulation.

13A.12.06 Disciplinary Actions and Denials

Authority: Education Article, §§2-205, 2-303(g), and 6-701—6-708; Family Law Article, §10-119.3; Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) *"Charge" means the written cause on which a proposed suspension or revocation is based.*

(2) "Denial" means that an individual may not be issued a license because the individual has committed one or more causes that could lead to the suspension or revocation of a license.

(3) "Revocation" means that an educator's license is withdrawn permanently.

(4) "Substantiated" means the allegation is supported by proof or evidence, including: witness statements, photographs, videos, and investigation reports.

(5) "Suspension" means that an educator's license is withdrawn for a specified period of time.

(6) "Voluntarily surrendered" means a license holder relinquishes the license while under investigation for a cause that could lead to the suspension or revocation of the license, or while a suspension or revocation action is pending against the license holder, and is equivalent to a revocation.

.02 Causes for Disciplinary Action or Denial.

A. The State Superintendent of Schools shall suspend, deny, or revoke a license and all specific license areas issued under this subtitle for the causes set forth in this regulation.

B. Suspension Only. A license may be suspended by the State Superintendent of Schools under the following conditions:

(1) Breach of Contract. A license may be suspended for not more than 365 days if the license holder leaves the employment of a local school system after July 15 in the absence of an emergency and without the consent of the local board of education in violation of the provisions of the Regular State Teacher's Contract set forth in COMAR 13A.07.02.01B. If an emergency arises, the local board may not unreasonably withhold its consent.

(2) Failure to Pay Child Support.

(a) The State Superintendent of Schools shall suspend a license on notification by the Department of Human Services, Child Support Enforcement Administration, that the license holder's failure to pay child support meets the criteria for suspension of a license under Family Law Article, §10-119.3, Annotated Code of Maryland.

(b) Before suspending the license, the State Superintendent shall send written notice to the license holder of the proposed suspension and the right to contest the identity of the individual whose license will be suspended.

(c) An individual may appeal the decision to suspend a license based on failure to pay child support in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland. At the appeal hearing, the administrative law judge shall limit the issue to whether the Department of Human Services, Child Support Enforcement Administration, has mistaken the identity of the individual whose license was suspended.

(d) The State Superintendent shall immediately reinstate any license suspended for failure to pay child support if notified by the Department of Human Services, Child Support Enforcement Administration, that the license should be reinstated and the individual otherwise qualifies for the license.

C. Suspension, Revocation, or Denial. The State Superintendent of Schools shall suspend, deny, or revoke a license if the license holder or applicant:

(1) Pleads guilty or nolo contendere with respect to, receives probation before judgment with respect to, or is convicted of, a crime involving:

(a) Contributing to the delinquency of a minor;

(b) Moral turpitude if the offense bears directly on the individual's fitness for employment in education;

(c) Sexual offense in the third or fourth degree; or

(d) A controlled dangerous substance offense if:

(i) The offense occurred on school property or during a school event; or

(ii) The individual has been convicted and the clerk of the court has certified and reported the controlled dangerous substance conviction to the Department consistent with Criminal Law Article, §5-810, Annotated Code of Maryland, based on a finding by the court that a relationship exists between the conviction and the license;

(2) Willfully and knowingly:

(a) Makes a material misrepresentation or concealment as part of any licensure request;

(b) Files a false report or record, or makes any false document, as part of any licensure request;

(c) Presents a false license or misrepresents one's licensure status to the Department or an employer; or

(d) Commits a violation of the test security and data reporting policy and procedures set forth in COMAR 13A.03.04;

(3) Fraudulently or deceptively obtains a license;

(4) Knowingly fails to report suspected child abuse in violation of Family Law Article, §5-701, Annotated Code of Maryland;

(5) Is dismissed after an allegation of misconduct involving a student in any school system or any minor is substantiated;

(6) Resigns after notice of allegation of misconduct involving a student in any school system or any minor;

(7) Is dismissed after notice of allegation of misconduct involving any cause for denial, suspension or revocation of a license provided in this regulation is substantiated;

(8) Resigns after notice of allegation of misconduct involving any cause for denial, suspension or revocation of a license provided in this regulation; or

(9) Has had a license suspended, revoked, denied, or voluntarily surrendered in another state for a cause which would be grounds for suspension or revocation under this regulation.

D. Revocation or Denial. The State Superintendent of School shall revoke or deny a license if the license holder or applicant:

(1) Pleads guilty or nolo contendere with respect to, receives probation before judgment with respect to, or is convicted of, a crime involving:

(a) Child abuse or neglect as defined in Criminal Law Article, §§3-601—3-603, Annotated Code of Maryland, or a comparable crime in another state;

(b) Possession, distribution, receipt, or production of child pornography;

(c) Sexual solicitation of a minor; or

(d) A crime of violence as defined in Criminal Law Article, §14-101, Annotated Code of Maryland, or a comparable crime in another state;

(2) Is dismissed after an allegation of sexual child abuse is substantiated; or

(3) Resigns after notice of allegations of sexual child abuse.

.03 Reporting Procedures.

A. Except as provided in Regulation .02B(2) of this chapter, the following individuals shall notify the State Superintendent of Schools in writing of charges against a license holder or applicant under Regulation .02 of this chapter:

(1) The local superintendent of schools or a state agency employer if the:

(a) Individual is currently employed or was employed by the local school system or state agency employer when the conduct occurred;

or

(b) Conduct is reported to the local school system in a criminal background investigation required under Family Law Article, §§5-560—5-568, Annotated Code of Maryland;

(2) The administrator of a nonpublic school if the:

(a) Individual is currently employed or was employed by the nonpublic school when the conduct occurred; or

(b) Conduct is reported to the nonpublic school in a criminal background investigation required under Family Law Article, §§5-560—5-568, Annotated Code of Maryland; or

(3) The Assistant State Superintendent of Educator Licensure and Program Approval, or the superintendent's designee.

B. The written report shall include all of the following:

(1) Name and current or last known address, e-mail, and phone number of the individual against whom the charges are being filed;

(2) Type of license or licenses held by the individual against whom the charges are being filed;

(3) Specific grounds as set forth in Regulation .02 of this chapter and the specifications that support the grounds for either suspension or revocation;

(4) Confirmation that the employee has foregone an appeal or exhausted appeal rights if any employment-related discipline was issued; and

(5) A recommendation on the type of disciplinary action that should be issued, including the following considerations:

(a) The parties may agree to a joint recommendation to the State Superintendent of Schools on the resolution of the case;

(b) The joint recommendation is not binding; and

(c) The State Superintendent of Schools may accept or reject the recommendation, as follows:

(i) Where the State Superintendent of Schools rejects the recommendation of the reporter under §A of this regulation, the State Superintendent shall recommend the appropriate disciplinary action; and

(ii) The reporter under §A of this regulation shall adopt the State Superintendent's recommendation in all proceedings related to the licensing action.

C. The State Superintendent of Schools shall deny, suspend, or revoke a license after written notification by a local superintendent of schools, an administrator of a nonpublic school, or the Assistant Superintendent of Educator Licensure and Program Approval, of the charges against the license holder.

D. Before denying, suspending or revoking a license, the State Superintendent of Schools shall:

(1) Send the applicant or license holder written notice of the charges; and

(2) Advise the applicant or license holder of the right to request a hearing within 30 calendar days of the date of the written notice.

E. The State Superintendent of Schools shall e-mail and mail one copy of the written notice and the procedures applicable to the suspension or revocation of a license by certified mail to the current or last known address of the license holder.

F. The license holder against whom charges have been filed may request a hearing in writing within 30 calendar days of the date of the written notice.

G. If the license holder does not request a hearing in writing on the charges within the 30-day period set forth in §D(2) of this regulation, the State Superintendent of Schools shall suspend or revoke the license.

H. Voluntary Surrender.

(1) An educator who is under investigation or facing charges for a cause listed in Regulations .02C and D of this chapter may voluntarily surrender his or her license.

(2) The State Superintendent of Schools shall treat a license that is voluntarily surrendered as a revocation, and it may not be reinstated except as described in Regulation .09 of this chapter.

I. Placing an Alert on an Educator's Record.

(1) The Department may place an alert on a licensure record on the request of a local school system, nonpublic school, state agency, or on its own accord, if an educator:

(a) Has had action taken on a license by another state; or

(b) Is facing the suspension or revocation of a license after being informed of charges by the State Superintendent of Schools.

(2) An alert does not affect the validity of an educator's license.

(3) The local school system, nonpublic school, or state agency shall immediately inform the Department if grounds no longer exist to suspend, deny, or revoke an educator's license.

(4) The Department shall immediately remove the alert from an educator's record if it becomes aware that grounds no longer exist to deny, suspend or revoke an educator's license.

J. Action on an Expired License. The Department may take action against an educator's license even if the license has expired as long as the basis for the action occurred while the license was active.

K. Denial.

(1) The Department shall deny a license, permanently or for a fixed period of time, to an individual who does not currently hold a license and has committed a cause listed under Regulations .02C of this chapter.

(2) The Department shall deny a license permanently to an individual who does not currently hold a license and has committed a cause listed under Regulations .02D of this chapter.

(3) An individual who has been denied a license may appeal the decision through the process outlined in Regulations .03—.07 of this chapter.

(4) An individual under investigation for a cause under .02 of this chapter shall remain ineligible for a license pending the result of the investigation.

(5) **Denial Because of a Failure to Pay Child Support.**

(a) An individual whose failure to pay child support meets the criteria for denial of a professional license under Family Law Article, §10-119.3, Annotated Code of Maryland, following written notification to the State Superintendent of Schools by the Department of Human Services, Child Support Enforcement Administration, is ineligible for a license.

(b) Before denial of a license, the State Superintendent shall send written notice to the individual, including the right to contest the identity of the individual whose license the Superintendent seeks to deny.

(c) An individual may appeal the decision to deny a license based on failure to pay child support in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland. At the appeal hearing, the issue is limited to whether the Department of Human Services, Child Support Enforcement Administration, has mistaken the identity of the individual whose license was denied.

(d) The State Superintendent shall immediately withdraw the denial of an application for a license if notified by the Department of Human Services, Child Support Enforcement Administration, that the individual is eligible for a professional license and the individual otherwise qualifies for a license.

.04 Hearing Procedures.

A. If the license holder requests a hearing in writing within the 30-day period, the State Superintendent of Schools shall promptly refer the case to the Office of Administrative Hearings.

B. If the written charges were filed against the license holder by the local superintendent of schools or an administrator of a nonpublic school under Regulation .03 of this chapter, a representative from the local school system or nonpublic school shall present the case before the Office of Administrative Hearings.

C. Hearing procedures are in accordance with the Administrative Procedure Act, State Government Article, §10-201 et seq., Annotated Code of Maryland, and with COMAR 28.02.

D. The administrative law judge shall determine if the charges against the license holder are supported by a preponderance of the evidence.

E. The administrative law judge shall submit in writing to the State Superintendent of Schools proposed findings of fact, proposed conclusions of law, and recommendations. The administrative law judge shall distribute this written proposed decision to the parties.

F. A party objecting to the administrative law judge's proposed decision may file exceptions with the State Superintendent of Schools within 15 calendar days of the date of the decision, and:

(1) The party filing exceptions shall ensure that a copy of the exceptions are provided to the opposing party;

(2) An opposing party may respond to the exceptions within 15 calendar days of the date of the exceptions;

(3) All parties shall have an opportunity for oral argument before the State Superintendent of Schools before a final decision is made; and

(4) The State Superintendent of Schools shall limit oral argument to 15 minutes per side.

.05 Record of Hearings.

A. The Office of Administrative Hearings shall prepare an official case record as provided in COMAR 28.02.01.23.

B. The Office of Administrative Hearings shall record the proceedings before the administrative law judge.

C. A party requesting a transcript of the proceedings, or part of the proceedings, shall pay the costs of the transcript, and a party requesting an expedited transcript shall pay the costs of the expedited transcript.

.06 Decisions.

A. The State Superintendent of Schools shall make the final decision in all contested cases dealing with the revocation, suspension, or denial of a license.

B. The State Superintendent of Schools shall make a final decision in writing containing findings of fact and conclusions of law.

C. The State Superintendent of Schools shall promptly deliver or mail a copy of the decision to each party as well as the party's attorney of record.

.07 Reconsideration of a Decision.

A. A party aggrieved by the decision may file a written request for reconsideration with the State Superintendent of Schools within 30 calendar days of the date of the decision.

B. The party requesting reconsideration shall serve copies of the request on all other parties.

C. A party filing a response to a request for reconsideration shall do so within 15 calendar days of the date of the request for reconsideration.

D. Action on the application for reconsideration shall lie at the discretion of the State Superintendent of Schools, except that a decision may not be disturbed unless there is a sufficient indication in the application that new facts material to the issues have been discovered or have occurred after the decision.

E. The State Superintendent of Schools may refuse to consider facts that the party could have produced at the hearing.

F. The State Superintendent of Schools may stay the decision at their discretion, on a finding of good cause.

G. The State Superintendent of Schools may abrogate, change, or modify the original decision, or remand the case to the administrative law judge.

.08 Educator Identification Clearinghouse.

A. The Educator Identification Clearinghouse is maintained by the National Association of State Directors of Teacher Education and Certification to provide a mechanism for licensing agencies to exchange names of educators whose licenses have been denied, revoked,

suspended, or surrendered.

B. The State Superintendent of Schools shall notify the Educator Identification Clearinghouse of all surrender, suspension, revocation, and denial decisions as part of the interstate certification data exchange.

C. The State Superintendent shall only provide final actions that are matters of public record to the Clearinghouse.

D. The existence of a record in the Educator Identification Clearinghouse alone is not grounds for reciprocal action.

.09 Reinstatement.

A. A professional license that has been suspended under this chapter is automatically reinstated at the end of the suspension period if the license did not expire during the period of suspension.

B. If the license expires during the period of suspension, the holder of the former license may reapply but shall meet the licensure requirements that are in effect when the holder applied for the new license.

C. If a decision of suspension, revocation, or voluntary surrender is based on Regulation .02C(1) or D(1) of this chapter and if the plea, probation before judgment, or conviction is overturned, or expunged, and there is no subsequent proceeding leading to a plea, probation before judgment, or conviction, the individual whose license is suspended, revoked, or voluntarily surrendered may file a written request for reinstatement, including documentation of the final status of the judicial proceeding.

D. Reinstatement Review Panel.

(1) An individual whose license was revoked under Regulation .02C of this chapter or voluntarily surrendered may petition the Reinstatement Review Panel for reinstatement of the license not sooner than 10 years from the date of revocation.

(2) The Reinstatement Review Panel shall consist of one member of the Maryland State Board of Education appointed by its president, one member of the Professional Standards and Teacher Education Board appointed by its chairperson, and the State Superintendent of Schools or designee.

(3) The individual seeking reinstatement shall submit to the Reinstatement Review Panel a written petition showing credible evidence, by affidavit or otherwise, of the factors set out in §C(4) of this regulation, and may request an opportunity to appear in person before the Panel.

(4) The Reinstatement Review Panel shall consider the following facts in evaluating a petition for reinstatement:

(a) The nature and circumstances of the individual's original misconduct;

(b) The individual's subsequent conduct and reformation;

(c) The individual's present character; and

(d) The individual's present qualifications and competence.

(5) The Reinstatement Review Panel may place conditions upon a reinstatement, including requiring an individual to complete ethics training.

(6) On unanimous vote of the Reinstatement Review Panel and if the individual has met all current licensure requirements, and subject to any conditions placed on the reinstatement by the Reinstatement Review Panel, the State Superintendent of Schools shall reinstate the license.

(7) On the Reinstatement Review Panel's request, MSDE staff may advise the panel regarding the licensure regulations.

E. A license revoked or voluntarily surrendered while an educator is under investigation or facing charges under Regulation .02D of this chapter may not be reinstated.

13A.12.07 Professional Standards and Teacher Education Board

Authority: Education Article, §§6-701 and 6-704, Annotated Code of Maryland

.01 Promulgation of Regulations.

A. The State Board of Education and the Professional Standards and Teacher Education Board (PSTEB) shall develop for consideration regulations for:

(1) The licensure of teachers and other professional personnel; and

(2) Requirements for preparation of teachers and other education personnel.

B. Regulations that are initiated by either the State Board or the PSTEB and submitted for review to the non-initiating Board shall be acted on within 60 days by the non-initiating Board.

.02 Review Board — Scope.

A. The procedures in Regulations .03—.08 of this chapter govern all appeals from rulings of the Department's licensure staff taken to the Review Board of the PSTEB.

B. The appeals do not constitute contested cases under the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

.03 Review Board — Method of Appeal.

A. An appellant seeking review by the Review Board shall file a written request for appeal within 30 days from the date the appellant receives notice of the ruling of the licensure staff.

B. The appellant shall address this written request for appeal to the chairperson of the Review Board, with a copy to the Assistant State Superintendent for Educator Licensure and Program Approval.

C. The written request for appeal shall specify whether the appeal is to be on the record under Regulation .03 of this chapter or in person under Regulation .04 of this chapter. It shall include a statement of the appellant's objections to the ruling of the licensure staff and the reasons supporting each objection.

D. On receipt of a copy of the request, the Assistant State Superintendent for Educator Licensure and Program Approval shall:

(1) Cause the entire file concerning the ruling to be transmitted to the Review Board;

(2) Acknowledge receipt of the request in writing to the appellant;

(3) Send a copy of this chapter to the appellant; and

(4) Schedule the appeal promptly before the Review Board, allowing reasonable advance notice to all parties.

.04 Review Board — Appeal on the Record.

A. At the appellant's option, the Review Board may make findings and submit recommendations to the PSTEB based solely on the written record.

B. The appellant may provide additional relevant documents to the Review Board, and shall submit a written statement explaining the appellant's position. A party seeking to file additions to the file shall do so at least 15 days before the scheduled appeal.

C. Licensure staff may submit a written response to the appellant's statement and provide any additional relevant documents to the Review Board at least 10 days before the scheduled appeal.

D. The appellant may submit a written reply to staff's response at least 5 days before the scheduled appeal.

.05 Review Board — Appeal in Person.

A. At the written request of the appellant, the Review Board shall allow oral argument on the appeal.

B. The Review Board shall limit oral presentations at the hearing to 15 minutes for a representative of the licensure staff, followed by 15 minutes for the appellant.

C. The Review Board may ask questions of either party. Other oral presentation or testimony is not permitted.

D. Both parties may present a written summary of their oral presentation.

.06 Review Board — Findings and Recommendations.

A. The Review Board shall deliberate the appeal in closed session and, by majority of the quorum present, make findings and recommendations to the PSTEB.

B. The Review Board shall submit its findings and recommendations by the chairperson in a written report to the PSTEB. The Review Board shall ensure this report includes:

- (1) Issues in question;
- (2) Findings of fact;
- (3) Conclusions of law; and
- (4) Recommendations and reasons for them.

.07 Review Board — Exceptions.

A. The appellant may file written exceptions to the Review Board's findings and recommendations by submitting these exceptions to the chairperson of the PSTEB within 15 days from the date of the Review Board's report.

B. The licensure staff may file a written response to the exceptions within 10 days of the date the exceptions are filed.

.08 Review Board — Final Determination.

A. The PSTEB shall make the final determination in each appeal from rulings of the licensure staff.

B. Before making a final determination, the PSTEB shall provide each member with:

- (1) A copy of the ruling of the licensure staff which is the subject of the appeal;
- (2) The written request for appeal;
- (3) The written report of the Review Board;
- (4) Any documents in the file cited in the report; and
- (5) Any written exceptions and response to exceptions.

C. The Department shall make the entire appeal file available to the PSTEB members on request.

D. The PSTEB shall, by majority vote of the quorum present, accept or reject the recommendation of the Review Board. The decision of the PSTEB is final.

E. The chairperson of the PSTEB shall notify the appellant in writing of the final determination, including the rationale for it.

MOHAMMED CHOUDHURY
State Superintendent of Schools

Title 14 INDEPENDENT AGENCIES

Subtitle 01 PRESCRIPTION DRUG AFFORDABILITY BOARD

14.01.03 Public Information Act

Authority: General Provisions Article §§4-101—4-601; Health-General Article, §21-2C-03(f)(1); Annotated Code of Maryland

Notice of Proposed Action

[23-126-P]

The Prescription Drug Affordability Board proposes to adopt new Regulations **.01—17** under a new chapter, **COMAR 14.01.03 Public Information Act**. This action was considered and approved by the Maryland Prescription Drug Affordability Board at a public meeting held on May 22, 2023, notice of which was provided by publication on the PDAB's website at https://pdab.maryland.gov/2023_board_meeting.html, as required under General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to establish procedures for filing and processing requests for the public records of the Maryland Prescription Drug Affordability Board in accordance with the Maryland Public Information Act, General Provisions Article §4-101—4-601, Annotated Code of Maryland.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Christina Shaklee, Health Policy Analyst Advanced, Maryland Prescription Drug Affordability Board, 16900 Science Drive, Suite 112-114, Bowie, MD 20715, or call 410-703-7015, or email to pdab.regs@maryland.gov. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

.01 Scope.

This chapter sets out procedures under the Public Information Act for filing and processing requests for the public records of the Prescription Drug Affordability Board.

.02 Policy.

It is the policy of the Board to facilitate access to the public records of the Board, if access is allowed by law, by minimizing costs and time delays to applicants.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Act" means the Public Information Act, General Provisions Article, §§4-101—4-601, Annotated Code of Maryland.

(2) "Applicant" has the meaning stated in General Provisions Article, §4-101(b), Annotated Code of Maryland.

(3) "Copy" means any form of reproduction using a photocopying machine or other reproduction technology, including a paper copy, an electronic copy, a printout, or an image.

(4) "Custodian" has the meaning stated in General Provisions Article, §4-101(d), Annotated Code of Maryland.

(5) "Executive Director" means the Executive Director of the Board as provided in Health-General Article, §21-2C-03, Annotated Code of Maryland.

(6) "Indigent" has the meaning stated in General Provisions Article, §4-206(a)(2), Annotated Code of Maryland.

(7) "Metadata" has the meaning stated in General Provisions Article, §4-205(a), Annotated Code of Maryland.

(8) "Official custodian" has the meaning stated in General Provisions Article, §4-101(f), Annotated Code of Maryland.

(9) "PIA coordinator" means the Board employee who is responsible for accepting requests for public records.

(10) "Public Access Ombudsman" means the official appointed under General Provisions Article, Title 4, Subtitle 1B, Annotated Code of Maryland, to resolve disputes under the Act.

(11) "Public record" has the meaning stated in General Provisions Article, §4-101(j), Annotated Code of Maryland.

(12) "Reasonable fee" has the meaning stated in General Provisions Article, §4-206(a)(3), Annotated Code of Maryland.

(13) "Sociological information" means personal phone number, personal email address, and personal home address.

.04 Official Custodian.

Unless otherwise provided by law, the Executive Director is the official custodian of the public records of the Board.

.05 Request for Public Records.

Any person may request to inspect or copy the public records of the Board.

.06 Written Request May Be Required.

A. Inspection.

(1) Except as otherwise provided in this chapter, the custodian shall make public records of the Board available for inspection by an applicant without demanding a written request.

(2) The custodian shall require a written request if the custodian reasonably believes that:

(a) The Act or any other law may prevent the disclosure of the public record to the applicant; or

(b) A written request will materially assist the Board in responding.

B. Copies. If the applicant requests one or more copies of any public record of the Board, the custodian may require a written request.

.07 Contents of Written Request.

A. A written request shall:

(1) Contain the applicant's contact information; and

(2) Reasonably identify, by brief description, the public record sought.

B. Written requests from the same requestor may be consolidated.

.08 Addressee.

A request to inspect or copy a public record of the Board shall be addressed to the custodian of the record or to the Board's PIA coordinator as designated under General Provisions Article, §4-503, Annotated Code of Maryland. If the custodian is unknown, the request may be addressed to "Executive Director" or "PIA Coordinator".

.09 Response to Request.

A. Grant of Request.

(1) If the custodian decides to grant a request for inspection, the custodian shall produce the public record for inspection:

(a) Immediately; or

(b) Within a reasonable time period, not to exceed 30 days after the date of the request, if that period is needed to retrieve the public record and conduct any necessary review.

(2) If the custodian reasonably believes that it will take more than 10 working days to produce the public record, the custodian shall indicate in writing or by electronic mail within 10 working days after receipt of the request:

(a) The amount of time that the custodian anticipates it will take to produce the public record;

(b) An estimate of the range of fees that may be charged to comply with the request for public records; and

(c) The reason why it will take more than 10 working days to produce the records.

B. Denial of Request. If the custodian decides to deny a request for inspection, the custodian shall:

(1) Deny the request within 30 days after the request; and

(2) Notify the applicant of the denial.

C. If a request is denied, the custodian shall provide the applicant, at the time of the denial or within 10 working days, a written statement that includes:

(1) The reasons for the denial, including, for records denied under General Provisions Article, §4-343, Annotated Code of Maryland, a brief explanation of:

(a) Why the denial is necessary, that is, why disclosure of the public record would be contrary to the public interest; and

(b) An explanation of why redacting information would not address the reasons for the denial;

(2) The legal authority for the denial;

(3) Without disclosing the protected information, a brief description of the undisclosed record or records that will enable the applicant to assess the applicability of the legal authority for the denial; and

(4) Notice of the remedies available for review of the denial.

D. If a requested public record is not in the custody or control of the person to whom application is made, that person shall, within 10 working days after receipt of the request:

(1) Notify the applicant that the person does not have custody or control of the requested public record; and

(2) If the person knows, include:

(a) The name of the custodian of the public record; and

(b) The location or possible location of the public record.

E. Any time limit imposed by §§A—C of this regulation may be extended, with the consent of the applicant, for an additional period of up to 30 days.

.10 Notice to Person Potentially Affected by Disclosure.

A. Unless prohibited by law, the custodian may provide notice of a request for inspection or copying of any public record of the Board to any person who, in the judgment of the custodian, could be adversely affected by disclosure of that public record.

B. The custodian may consider the views of the potentially affected person before deciding whether to disclose the public record to an applicant.

.11 Electronic Records.

A. Except as provided in §§C and D of this regulation, the custodian shall provide an applicant with a copy of the public record in a searchable and analyzable electronic format if:

(1) The public record is in a searchable and analyzable electronic format;

(2) The applicant requests a copy of the public record in a searchable and analyzable electronic format; and

(3) The custodian is able to provide a copy of the public record, in whole or in part, in a searchable and analyzable electronic format that does not disclose information that is protected from disclosure under the Act.

B. The custodian shall provide a portion of the public record in a searchable and analyzable electronic format if:

(1) Requested by the applicant; and

(2) The custodian is able to do so by using the existing functions of the database or software program that contains the searchable and analyzable data.

C. The custodian is not required to:

(1) Create or reconstruct a public record in an electronic format if the public record is not available in an electronic format;

(2) Release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which the record is maintained; or

(3) Create, compile, or program a new public record.

D. The custodian may remove metadata from an electronic document before providing the electronic record to an applicant by:

(1) Using a software program or function; or

(2) Converting the electronic record into a different searchable and analyzable format.

.12 Public Record Destroyed or Lost.

If the person to whom application is made knows that a requested public record of the Board has been destroyed or lost, that person shall promptly:

A. Notify the applicant that the public record is not available; and

B. Explain the reasons why the public record cannot be produced.

.13 Availability of Judicial and Administrative Review.

If the custodian denies a request to inspect or copy a public record of the Board, the applicant may file an action for judicial enforcement under General Provisions Article, §4-362, Annotated Code of Maryland, without pursuing the remedies set forth in General Provisions Article,

Subtitles 1A and 1B, Annotated Code of Maryland.

.14 Disclosure Against Public Interest.

A. Denial Pending Court Order.

(1) *If, in the opinion of the Executive Director, disclosure of a public record of the Board otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Executive Director may temporarily deny the request to obtain a court order allowing nondisclosure.*

(2) *The temporary denial shall be in writing.*

B. Circuit Court Review.

(1) *Within 10 working days after the denial, the Executive Director shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.*

(2) *Notice of the Executive Director's complaint shall be served on the applicant in the manner provided for service of process by the Maryland Rules of Procedure.*

.15 Fees.

A. Except as provided in §§B and C of this regulation, the fee schedule for copying and certifying copies of public records of the Board is as follows:

(1) *For each copy made by a standard printer or a photocopying machine within the Board, the fee is 25 cents per page;*

(2) *For each copy made other than by a standard printer or a photocopying machine within the Board, the fee shall be based on the actual cost of reproduction; and*

(3) *For a public record certified as a true copy, an additional fee of \$1 per page (or, if appropriate, per item) shall be charged.*

B. Minimum Fee. A charge may not be made if the total fee is \$1 or less.

C. If the fee for copies or certified copies of any public record of the Board is specifically set by a law other than the Act or this regulation, the custodian shall charge the prescribed fee.

D. If the custodian cannot copy a public record within the Board, the custodian shall make arrangements for the prompt reproduction of the record at public or private facilities outside the Board. The custodian shall:

(1) *Collect from the applicant a fee to cover the actual cost of reproduction; or*

(2) *Direct the applicant to pay the cost of reproduction directly to the facility making the copy.*

E. Before copying a public record of the Board, the custodian shall estimate both the cost of reproduction and the search and preparation fee under §F of this regulation and either:

(1) *Obtain the agreement of the applicant to pay the cost; or*

(2) *Demand prepayment of all or a portion of the cost.*

F. Search and Preparation Fee.

(1) *Except as provided in §G of this regulation, the custodian may charge a reasonable fee for time that an official or employee of the Board spends to:*

(a) *Search for requested public records;*

(b) *Review requested public records for potential disclosure; and*

(c) *Prepare public records for inspection and copying.*

(2) *The custodian shall determine the fee under §F(1) of this regulation by multiplying the employee's salary, prorated to an hourly basis, by the actual time attributable to the search for, review of, and preparation of public records for inspection and copying.*

G. The custodian may not charge a search or preparation fee under §F of this regulation for the first 2 hours needed to search for and prepare a public record for inspection.

H. Waiver or Reduction of Fee.

(1) *The official custodian may waive or reduce any fee set under this regulation if:*

(a) *The applicant requests a waiver; and*

(b) *Either:*

(i) *The custodian determines that the waiver or reduction is in the public interest; or*

(ii) *The applicant is indigent and files an affidavit verifying the facts that support a claim of indigency.*

(2) *In determining whether a fee waiver is in the public interest, the custodian shall consider, among other relevant factors, the ability of the applicant to pay the fee.*

I. If the applicant requests that copies of a public record be mailed or delivered to the applicant or to a third party, the custodian may charge the applicant for the cost of postage or delivery.

.16 Time and Place of Inspection.

A. An applicant may inspect any public record of the Board that the applicant is entitled to inspect during the normal working hours of the Board.

B. The inspection shall occur where the public record is located unless the custodian, after taking into account the applicant's expressed wish, determines that another place is more suitable and convenient.

.17 Sociological Information.

Except for use in carrying out the custodian's governmental functions or if disclosure is otherwise required by law, and in compliance with General Provisions Article, §4-330, Annotated Code of Maryland, a custodian may not disclose under the Act, and shall deny a request for inspection or copying of, the part of a public record that contains sociological information relating to an individual.

ANDREW YORK
Executive Director

Subtitle 04 MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION

Notice of Proposed Action

[23-127-P]

The Maryland Technology Development Corporation proposes to:

- (1) Amend Regulation .01 under **COMAR 14.04.01 Definitions**;
- (2) Amend Regulations .04— .06 under **COMAR 14.04.02 Investment Programs**;
- (3) Amend Regulations .03 and .07 under **COMAR 14.04.06 Maryland Venture Fund**; and
- (4) Adopt new Regulations .01— .07 under a new chapter, **COMAR 14.04.09 Maryland Equity Investment Fund**.

Statement of Purpose

The purpose of this action is to update the regulations to conform to Ch. 391, Acts of 2022, including amending definitions and amending eligibility criteria for Maryland Technology Development Corporation’s (TEDCO) investments to align with the new statutory provisions for the Maryland Equity Investment Fund (MEIF). Additionally, the action amends the definition of “Early-stage business” for investments by the Rural Business Innovation Initiative program and amends the investment limits for TEDCO’s investment programs. The action also adds provisions to govern TEDCO’s investments by the MEIF. Finally, the action makes certain administrative changes to update cross-references and statutory citations.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed regulations make some updates to existing, approved regulations and have a meaningful economic impact. The updates include: (a) adding provisions to govern investments by the Maryland Equity Investment Fund (MEIF) with the goal to increase private equity and venture capital in Maryland, generate financial returns, and foster economic growth in Maryland; (b) amending the definition of “early-stage business” for investments by the Rural Business Innovation Initiative program, which enables more companies to apply for an investment; and (c) increasing the investment limits for Maryland Technology Development Corporation’s investment programs, which increases the amount of money an applicant can receive from the programs.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
Maryland Technology Development Corporation’s (“TEDCO”)	(R+)	Minor
B. On other state agencies:		
NONE		
C. On local governments:		
NONE		
<hr/>		
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
NONE		
E. On other industries or trade groups:		
NONE		
F. Direct and indirect effects on public:		
Expansion of companies eligible for investment.	(+)	Meaningful

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

- A. Special fund revenues for Maryland Technology Development Corporation has increased by \$10 million for FY 2024.
- F. Changes to the eligibility criteria will allow more qualified businesses to apply for an investment from the Maryland Technology Development Corporation.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows:

The proposed action may have a meaningful economic impact on small businesses. Small businesses that are qualified businesses may benefit from receiving private equity and venture capital investments from the Maryland Equity Investment Fund. Further, the amendments to existing regulations increase the award amounts available for investment in specific investment programs (Pre-Seed Builder Fund, Inclusion Fund, etc.). Thus, qualifying businesses receiving investments from these programs could benefit from the increased investment amounts. Overall, the total number of awards made in these programs is not expected to decrease due to the recent influx of federal TEDCO SSBCI funds, which is also used for social impact funding, and the recent program funding increase to the Pre-Seed Builder Fund.

Changes to existing regulations also expand eligibility criteria for Rural Business Innovation Initiative investments, creating parity with TEDCO’s Pre-Seed Builder Fund eligibility. This change has a potentially meaningful economic impact on small businesses qualifying for this

program, especially as very small businesses frequently take more than 7 years to grow and develop.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Mindy Lehman, Chief Government Relations and Policy Officer, Maryland Technology Development Corporation, 7021 Columbia Gateway Dr., Suite 500, Columbia, MD 21046, or call 443-758-4043, or email to response@tedco.md. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

14.04.01 Definitions

Authority: Economic Development Article, §§10-409 and 10-4A-27, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(9) (text unchanged)

(10) “Early-stage business” means a business that:

(a) Except for businesses applying for investment under COMAR 14.04.03 *and* .04 or as otherwise provided in COMAR 14.04.05, commenced operations not more than 7 years before the date on which the business submits an application for an investment by TEDCO;

(b)—(c) (text unchanged)

(11)—(21) (text unchanged)

(22) “Qualified business” has the meaning stated in §§10-401(g) *and* 10-487(a)(4) of the Act, except as otherwise stated in this subtitle.

(23)—(29) (text unchanged)

14.04.02 Investment Programs

Authority: Economic Development Article, §§10-409 and 10-4A-27, Annotated Code of Maryland

.04 Eligibility.

A. Eligibility Criteria. Except as provided in §C of this regulation, TEDCO may invest in an applicant if TEDCO determines the applicant meets all of the following criteria:

(1) (text unchanged)

(2) [Over] *Except for applicants applying for investment under COMAR 14.04.09, over half of the applicant’s workforce works at and from a physical location in the State;*

(3)—(8) (text unchanged); and

(9) Other eligibility criteria for each investment program under COMAR 14.04.03—.06 *and* .09;

B. Qualified Business Information. Except as required under §C of this regulation, in order to be considered for an investment by TEDCO, an applicant shall submit to TEDCO a written application in accordance with Regulation .05 of this chapter with sufficient information for TEDCO to establish eligibility under §A of this regulation, including:

(1) [The] *Except for applicants applying for investment under COMAR 14.04.09, the total number of the applicant’s founders and employees and the number of the applicant’s founders and employees working in the State;*

(2)—(4) (text unchanged).

C. Substantial Economic Impact Information. In lieu of the information provided in §B(1)—(3) of this regulation, the applicant may submit to TEDCO information that the applicant’s business will have a substantial economic impact in the State as set forth in COMAR 14.04.07. After reviewing information submitted by an applicant under this section, TEDCO may request additional information or conduct its own investigation of the applicant’s potential for substantial economic impact in the State. In its sole discretion, TEDCO may submit information provided under this section to the Investment Committee for its consideration. *This section does not apply to applicants applying for investment under COMAR 14.04.09.*

D. (text unchanged)

E. *State Small Business Credit Initiative Funds. All investments using proceeds allocated under the federal State Small Business Credit Initiative shall comply with 12 U.S.C. 5701 et seq., as amended.*

.05 Procedures and Guidelines for Investment Decisions.

A. (text unchanged)

B. Application Process.

(1) (text unchanged)

(2) Required Information. Through an application, an applicant shall provide information sufficient for TEDCO to:

(a) Determine whether the applicant meets the eligibility requirements as set forth in the Act and the specific requirements of the applicable investment program set forth in COMAR 14.04.03—.06 *and* .09; and

(b) (text unchanged)

(3)—(6) (text unchanged)

C.—F. (text unchanged)

.06 Amount of Money Available for Investment.

A. (text unchanged)

B. Amount for Each Investment Program.

(1) Pre-Seed Builder Fund and Inclusion Fund. TEDCO may make an investment of up to [\$250,000] \$500,000 in each business selected for participation in the Pre-Seed Builder Fund or the Inclusion Fund.

(2) (text unchanged)

(3) Seed Funds. TEDCO may invest:

(a) For Cybersecurity Investment Fund and Technology Commercialization Fund, up to [\$200,000] \$500,000 per investment;

(b) For the Life Science Investment Fund, up to [\$200,000] \$500,000 per investment; and

(c) For the GAP Fund, up to [\$500,000] \$750,000 per investment.

(4) (text unchanged)

(5) *Maryland Equity Investment Fund. TEDCO may invest up to \$2,000,000 per investment.*

C. (text unchanged)

14.04.06 Maryland Venture Fund

Authority: Economic Development Article, §§10-409 and 10-4A-27, Annotated Code of Maryland

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) “Invest Maryland Program” means the investment program established under [§§10-473—10-499] §§10-4A-01—10-4A-28 of the Act.

(3) (text unchanged)

.07 Procedures and Guidelines for Investment Decisions.

A.—B. (text unchanged)

[C. State Small Business Credit Initiative Funds. All investments using proceeds through the Enterprise Fund allocated to the State under the federal State Small Business Credit Initiative shall comply with 12 U.S.C. 5701 et seq., as amended.]

14.04.09 Maryland Equity Investment Fund

Authority: Economic Development Article, §10-409, Annotated Code of Maryland

.01 Purpose.

These regulations prescribe the objectives and investment policy of the Maryland Equity Investment Fund, and the eligibility requirements, criteria, procedures, and guidelines for investment by the Maryland Equity Investment Fund.

.02 Objective.

Through the Maryland Equity Investment Fund, TEDCO seeks to invest in qualified businesses with a goal to increase private equity and venture capital in the State that will have the potential to:

A. Generate financial returns to the benefit of the participants of the several pension systems managed by the State Retirement and Pension System; and

B. Foster economic growth throughout the State.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Maryland Equity Investment Fund” means the investment program established by §10-487 of the Act.

(2) “Qualified business” has the meaning stated in §10-487(a)(4) of the Act.

.04 Investment Philosophy and Types of Qualified Businesses.

TEDCO seeks to invest in businesses that have demonstrated financial success and continued growth potential appropriate for subsequent venture investments or a public offering.

.05 Eligibility.

TEDCO shall be satisfied that the applicant is a qualified business and meets the requirements under COMAR 14.04.02.04.

.06 Investment Criteria.

In General. In addition to the investment criteria set forth in COMAR 14.04.02.05, TEDCO shall consider the following investment criteria:

A. Whether the market opportunity is appropriate for venture capital;

B. Whether the applicant, at the time it submits an application to TEDCO, is raising a minimum investment round of \$2,000,000;

C. Whether the investment has the potential to generate returns of two times the amount of TEDCO’s invested capital not more than 8 years from the date of the investment;

D. Whether the applicant presents a plausible exit strategy for investors; and

E. Whether the management team has the skills and ability to effectively secure an institutional venture investment concurrent with the investment of the Maryland Equity Investment Fund.

.07 Procedures and Guidelines for Investment Decisions.

TEDCO shall select businesses for investment by the Maryland Equity Investment Fund in accordance with the application process set forth in COMAR 14.04.02.

Subtitle 37 OFFICE OF THE PUBLIC ACCESS OMBUDSMAN**Notice of Proposed Action**

[23-118-P]

The Office of the Public Access Ombudsman proposes to:

- (1) Amend Regulation **.01** under **COMAR 14.37.01 General Provisions**;
- (2) Amend Regulations **.01** and **.02**, repeal existing Regulations **.03—06**, and adopt new Regulations **.03—11** under **COMAR 14.37.02**

Process;

- (3) Amend Regulations **.01** and **.02** under **COMAR 14.37.03 Confidentiality of Mediation Information**;
- (4) Amend Regulation **.02** under **COMAR 14.37.04 Disputed Public Records**; and
- (5) Amend Regulation **.02** under **COMAR 14.37.05 Written Guidance**.

Statement of Purpose

The purpose of this action is to update the interpretive regulations of the Public Access Ombudsman in light of changes to the provisions for alternative dispute resolution in the Public Information Act, Ch. 658, Acts of 2021, which took effect on July 1, 2022. The regulations reflect new obligations and duties of the Ombudsman under the new law.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Spencer Dove, Administrative Officer, Office of the Public Access Ombudsman, c/o Office of the Attorney General, 200 St. Paul Place, 19th Floor, Baltimore, MD 21202, or call 410-576-7035, or email to sdove@oag.state.md.us. Comments will be accepted through August 14, 2023. A public hearing has not been scheduled.

14.37.01 General Provisions

Authority: General Provisions Article, §4-1B-04, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

(6) *“Final determination” means the written document issued by the Public Access Ombudsman pursuant to General Provisions Article, §4-1B-04(b), Annotated Code of Maryland, stating that a specific dispute has been resolved or partially resolved or not resolved, or other disposition as provided in Regulations .06, .07, and .09 of this chapter.*

[(6)] (7)—[(14)] (15) (text unchanged)

[(15)] (16) *“Public record” has the meaning stated in General Provisions Article, [§4-101(j)] §4-101(k), Annotated Code of Maryland.*

(17) *“Sociological information” means any of the following information concerning a person that may be contained in a record of the Ombudsman:*

(a) *Social security number;*

(b) *Driver’s license number;*

(c) *Personal mailing address;*

(d) *Personal phone number;*

(e) *Personal email address; and*

(f) *Date of birth.*

[(16)] (18)—[(17)] (19) (text unchanged)

(20) *“Written mediation agreement” means a written agreement between the Ombudsman and the parties to a mediation that provides the specific terms under which that particular mediation will proceed.*

14.37.02 Process

Authority: General Provisions Article, §4-1B-04, Annotated Code of Maryland

.01 Requesting [Assistance] Dispute Resolution.

A. A party may request the Office’s assistance in resolving a dispute by contacting the Office via telephone, mail, email, or website submission.

B. *If possible, an applicant or custodian shall complete the form entitled Request for Mediation Assistance available on the Office website.*

.02 Documents [Required].

A. [A party requesting assistance from the Office shall, if possible provide the Office with:] *An applicant or custodian requesting dispute resolution through the Office shall provide the Office with:*

- (1) A copy of the applicant's written request for public records; [and]
- (2) The custodian's [response letter.] *10-day letter, if applicable;*
- (3) *The custodian's final response, if any; and*
- (4) *A brief description of the dispute.*

B. [Upon the Office's request, a party may provide the Office with:] *An applicant or custodian may provide the Office with:*

- (1) Any records produced to the applicant by the custodian; and
- (2) Any [other documentation that the Ombudsman believes may facilitate the mediation process] *relevant correspondence between the applicant and custodian.*

C. *Upon the Office's request, an applicant or custodian may provide the Office with any other documents that the Ombudsman believes may facilitate the mediation process.*

D. *Upon receipt of all necessary information and documents, and subject to Regulation .05 of this chapter, the Office shall open a file as soon as practicable.*

E. *The failure of an applicant or custodian who is requesting dispute resolution to provide the Office with the documents identified in §A of this regulation may result in the Office declining to open a file.*

.03 Written Mediation Agreement.

The Ombudsman may request that the parties enter into a written mediation agreement if, in the Ombudsman's discretion, such agreement would facilitate the mediation process.

.04 Timing.

A. *Ordinarily, the Ombudsman will handle matters in the order in which a request for dispute resolution is received and the file is opened.*

B. *The Ombudsman has discretion to handle a matter out of order if there is a compelling reason to do so.*

C. *Time for Mediation.*

(1) *The Ombudsman has up to 90 days from the date a file is opened with the Office in which to attempt to resolve a dispute and bring a matter to closure.*

(2) *The 90-day deadline may be extended if:*

- (a) *An extension is needed and desirable in light of the progress that has already been made to resolve the dispute;*
- (b) *An extension is likely to result in the ultimate resolution of the dispute; and*
- (c) *The applicant, the custodian, and the Ombudsman agree to the extension and the extension is confirmed in writing.*

.05 Repetitive Requests for Dispute Resolution.

A. *Definitions.*

(1) *In this regulation, the following terms have the meanings indicated.*

(2) *Terms Defined.*

(a) *"Repetitive request for dispute resolution" means a request:*

- (i) *For the Ombudsman's assistance to resolve a dispute;*
- (ii) *That relates to a PIA request that in substance has been the subject of mediation between the same parties through the Office in the past; and*

(iii) *For which the dispute is substantially the same.*

(b) *"Significantly changed circumstances" means:*

- (i) *A change in the law, subsequent to mediation, that may affect the outcome of the mediation; or*
- (ii) *A change in the custodian or applicant's position regarding the dispute.*

B. *The Ombudsman has discretion to decline to mediate repetitive requests for dispute resolution, absent significantly changed circumstances.*

.06 Process Voluntary — Declining and Withdrawing Requests.

A. *The Ombudsman's mediation process is voluntary for each party.*

B. *If the applicant or custodian that is the subject of the request for dispute resolution declines to mediate the dispute, the Ombudsman shall, as soon as practicable, issue a final determination as provided in Regulation .11 of this chapter stating that the dispute was not resolved and indicating that mediation was declined.*

C. *Withdrawing a Request for Dispute Resolution.*

(1) *A party requesting dispute resolution through the Ombudsman may withdraw the request.*

(2) *If a request for dispute resolution is withdrawn after the Office has opened a file, then the Ombudsman shall issue a final determination as provided in Regulation .11 of this chapter stating that the request for dispute resolution was withdrawn.*

(3) *Renewing a Request for Dispute Resolution.*

(a) *A party that has withdrawn a request for dispute resolution through the Ombudsman may renew the request one time.*

(b) *If a party renews the request for dispute resolution and withdraws that request again, the Ombudsman may decline to mediate a second or subsequent renewed request for dispute resolution.*

.07 Conduct of Ombudsman.

A. *The Ombudsman shall read and, consistent with State law, shall abide by the Standards of Conduct for Mediators during the mediation process.*

B. *The Ombudsman shall remain neutral, impartial, and independent during the mediation process.*

C. *Conflicts of Interest.*

(1) *The Ombudsman shall disclose to the parties all actual and potential conflicts of interest reasonably known to the Ombudsman.*

(2) Notwithstanding an actual or potential conflict of interest, the Ombudsman may proceed to attempt to resolve a dispute if:

- (a) The Ombudsman is able to conduct the mediation in a neutral, impartial, and independent manner; and
- (b) The applicant and custodian have consented to proceed in writing.

(3) If the Ombudsman is unable to proceed in a neutral, impartial, and independent manner, or if the parties have not consented to proceed in light of an actual or potential conflict, then the Ombudsman shall:

(a) Withdraw from that mediation; and

(b) Issue a final determination as provided in Regulation .11 of this chapter stating that the dispute was not resolved through the Ombudsman due to conflict.

(4) If the Ombudsman withdraws from a mediation due to conflict, the Ombudsman may suggest to the parties an alternative dispute resolution resource.

D. In addition to or in lieu of mediation, the Ombudsman may engage in other reasonable efforts to resolve or prevent a dispute or potential dispute, such as by answering questions about the Act, by providing trainings on the Act, and by engaging in preliminary conversations with an applicant or custodian about the subject of a dispute or potential dispute.

.08 Conduct of Parties.

A. The Ombudsman may establish written standards of conduct with which the parties will be expected to comply during the mediation process.

B. The Ombudsman shall disclose all written standards of conduct to the parties at the outset of the mediation.

C. A party's failure to abide by a written standard of conduct may result in termination of the mediation process.

.09 Termination of Mediation.

A. The Ombudsman may terminate the mediation process at any time if the Ombudsman determines that mediation will not reasonably lead to resolution of the dispute.

B. In making the decision whether to terminate a mediation, the Ombudsman may consider, among other factors:

- (1) The duration of the mediation process;
- (2) The parties' efforts to resolve the dispute;
- (3) The Ombudsman's efforts to resolve the dispute;
- (4) The likelihood that the parties will change their positions;
- (5) A party's failure to abide by the written standards of conduct;
- (6) A party's failure to abide by the party's confidentiality obligations; and
- (7) A party's use of the mediation process for purposes of delay or harassment.

C. Upon termination of a mediation, the Ombudsman shall issue a final determination as provided in Regulation .11 of this chapter and, without disclosing confidential mediation communications, indicate the reason why mediation was terminated.

.10 Identification of New Dispute.

If, during the course of attempting to resolve a dispute, a new and distinct dispute related to the same PIA request arises, a new file may be opened pursuant to Regulations .01 and .02 of this chapter.

.11 Final Determination.

A. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Terms Defined.

(a) "Not resolved" means that the parties were unable to reach a mutually agreeable resolution of a dispute.

(b) "Partially resolved" means that the parties have reached a mutually agreeable resolution as to one or more, but not all, segregable sub-issues within a dispute.

(c) "Resolved" means that the parties have reached a mutually agreeable resolution of a dispute.

B. At the conclusion of a mediation, the Ombudsman shall issue a written final determination stating that the dispute has been resolved, partially resolved, or not resolved.

C. The written final determination shall include:

- (1) The name of the applicant, the name of the custodian, and the Office file number;
- (2) A brief summary of the matter, including:
 - (a) The date of the PIA request;
 - (b) A description of the records sought;
 - (c) The date of the custodian's response, if any; and
 - (d) A summary of the custodian's response, if any;
- (3) A brief description of the dispute for which dispute resolution was sought;
- (4) The date and length of an extension, if one was granted; and
- (5) Notice of PIA Compliance Board procedures and contact information.

D. The Ombudsman shall send the final determination to the relevant applicant and custodian.

E. Board.

(1) The Ombudsman does not automatically provide the final determination to the Board.

(2) If a complaint is filed with the Board, the Ombudsman may provide the final determination to the Board upon the Board's request.

14.37.03 Confidentiality of Mediation Information

Authority: General Provisions Article, §4-1B-04, Annotated Code of Maryland

.01 General Confidentiality Provisions.

A.—C. (text unchanged)

[D. The Ombudsman may request the parties to enter into a written mediation agreement to strictly maintain the confidentiality of all mediation information if, in the Ombudsman's discretion, such agreement would facilitate the mediation process.]

.02 Exceptions to Confidentiality of Mediation Information.

A. The Ombudsman may disclose mediation information, *including mediation communications*, in the following situations:

[A.] (1) With Office staff, including [the] *an Assistant Attorney General who represents the Office, the Administrative Officer, or any other person working under the direction of the Ombudsman*, to carry out the duties of the Office; and

[B.] (2) [Where] *To third parties, if the parties to the mediation have consented [in writing] to the disclosure.*

B. *The Ombudsman may transfer basic information about a dispute, including the identity of the applicant and custodian and the nature of the dispute, to the Board if appropriate steps have been taken to protect the confidentiality of mediation communications.*

14.37.04 Disputed Public Records

Authority: General Provisions Article, §4-1B-04, Annotated Code of Maryland

.02 Confidentiality of Disputed Public Records.

A. The Ombudsman shall strictly maintain the confidentiality of any public record or part of a public record submitted for review under this chapter, and may not disclose any such public record or part of a public record [with] *to another party without the written permission of the custodian.*

B. *The Ombudsman shall take reasonable steps to segregate confidential records in such a way that their confidence is maintained.*

C. *Upon the conclusion of a mediation involving the Ombudsman's review of disputed public records, the Ombudsman shall return or destroy the disputed public records.*

14.37.05 Written Guidance

Authority: General Provisions Article, §4-1B-04, Annotated Code of Maryland

.02 Ombudsman May Publish.

A. (text unchanged)

B. Before publishing written guidance, the Ombudsman shall[:

(1) Remove] *remove all identifying information[; and].*

[(2) Obtain consent from the parties to whom it was provided.]

LISA KERSHNER
Public Access Ombudsman

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

STATE COLLECTION AGENCY LICENSING BOARD (SCALB)

Subject: Public Meeting

Date and Time: August 8, 2023, 2 — 3 p.m.; Thereafter the public meetings will take place the second Tuesday of every month, accessed via the Google Meet information given below.

Place: Google Meet

Add'l. Info: Google Meet joining info:

Video call link:

<https://meet.google.com/ahz-mgnk-jsu>

Join by phone: 1-530-738-1353

PIN: 815 799 863 #

More phone numbers:

<https://tel.meet/ahz-mgnk-jsu?pin=1097700804795>

If necessary, the Board will convene in a closed session to seek the advice of counsel or review confidential materials, pursuant to General Provisions Article, §3-305, Annotated Code of Maryland.

Contact: Ayanna Daugherty 410-230-6019

[23-14-09]

DEPARTMENT OF THE ENVIRONMENT

Subject: Public Meeting

Date and Time: July 26, 2023, 9 a.m. — 12 p.m.

Place: Department of the Environment, 1800 Washington Blvd., Baltimore, MD

Contact: Taj Goodlow 410-537-4466

[23-14-02]

MARYLAND DEPARTMENT OF HEALTH

Subject: Receipt of Application

Add'l. Info: The Maryland Department of Health (MDH) is currently accepting applications and nominations for physicians and pharmacists to serve on the Maryland Medicaid Drug Use Review (DUR) Board beginning January 2024.

The implementation of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), §1927g(3) requires that the MDH establish a Medicaid DUR Board. The DUR Board is comprised of licensed and actively practicing physicians and pharmacists in Maryland and has operated since November 1992. The activities of the DUR Board include but are not limited to the following:

- Reviewing prospective and retrospective DUR criteria, prior authorization criteria, and quantity or dosage form limitations developed by the Division of Clinical Pharmacy Services or contracted vendors.
- Evaluating the use of criteria and interventions, including assessing the operational effect of the criteria and interventions, to identify areas of prescribing and dispensing specific drugs that may result in adverse participant outcomes.
- Evaluating participant drug utilization that may represent potential fraud and abuse and make disposition recommendations.
 - Identifying educational needs, developing educational plans to improve prescribing or dispensing practices, and evaluating the effectiveness of these educational interventions.
- Advising the Office of

Pharmacy Services (OPS) in enrolling participants into the Corrective Managed Care (CMC) Program through the DUR Board's CMC Advisory Committee. This subcommittee of the DUR Board develops Corrective Managed Care enrollment recommendations by considering the Lock-In Criteria for participants (as defined by the CMC Advisory Committee Policy and Procedures).

The DUR Board meets quarterly for 3—4 hours in the Baltimore area. Meetings are typically scheduled on the first Thursday morning during the months of March, June, September, and December. Members are appointed by the Secretary of MDH and serve terms of 3 years from their appointment with the option to serve an additional 3-year term.

The membership of the Maryland DUR Board includes healthcare professionals who have recognized knowledge and expertise in one or more of the following areas:

- (1) The clinically appropriate prescribing of outpatient drugs.
- (2) The clinically appropriate dispensing and monitoring of outpatient drugs.
- (3) Drug use review, evaluation, and intervention.
- (4) Medical quality assurance.

All interested applicants are required to submit a formal application through the Maryland Department of Health's (MDH) Office of Appointments and Executive Nominations application link at <https://mdhappointments.health.maryland.gov/BoardAppointments>. Applications must be submitted by August 1st, 2023.

Any additional questions regarding applications may be addressed to Mangesh Joglekar and/or Lynn Frendak at the Office of Pharmacy Services: mangesh.joglekar@maryland.gov and lynn.frendak@maryland.gov.

Contact: Mangesh Joglekar 410-767-5878

[23-14-03]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting

Date and Time: July 20, 2023, 1 — 4 p.m.

Place: 4160 Patterson Avenue, Rm. 100, Baltimore, MD

Add'l. Info: Meeting will be held virtually. To attend, please register in advance on the Commission website at <https://mhcc.maryland.gov/>.

Contact: Valerie Wooding 410-764-3570

[23-14-01]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review

Add'l. Info: The Maryland Health Care Commission (MHCC) hereby gives notice of docketing of the following application for Certificate of Need:

Doctors Community Medical Center — (Prince George's County) — Docket No. 23-16-2466 — Propose to (a) establish a new obstetric program; (b) construct a new acute care pavilion adjacent to the existing hospital building, and (c) renovate hospital infrastructure and surgical services facilities to improve hospital function. LHDCMC is committed to providing access to acute care services, including obstetrics, for residents of its service area; Proposed Cost: \$285,954,229.

MHCC shall review the applications under Health-General Article, §19-101 et seq., Annotated Code of Maryland, COMAR 10.24.01, and the applicable State Health Plan standards.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties. Persons desiring to become interested parties in the Commission's review of the above-referenced application must meet the requirements of COMAR 10.24.01.01B(2) and (20) and must also submit written comments to the Commission no later than close of business August 14, 2023. These

comments must state with particularity the State Health Plan standards or review criteria that you believe have not been met by the applicant as stated in COMAR 10.24.01.08F.

Please refer to the Docket Number listed above in any correspondence on the application. Copies of the application are available for review in the office of MHCC during regular business hours by appointment. All correspondence should be addressed to Wynee Hawk, Director, Center for Health Care Facilities and Planning, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter 443-764-3276

[23-14-11]

MARYLAND HEALTH CARE COMMISSION

Subject: Receipt of Application

Add'l. Info: On June 20, 2023, the Maryland Health Care Commission (MHCC) received a Certificate of Need application submitted by:

Hygea Detox at Camp Meade — Matter No. 23-02-2468 — Establish a 16-bed adult detoxification Track One Alcoholism and Drug Abuse Intermediate Care Facility (ICF) at the site of the former Maryland House Detox facility, a 1.9029 acre site in Anne Arundel County, located at 817 S. Camp Meade Rd, Linthicum Heights, Maryland; Proposed Cost: \$136,781.

The MHCC shall review the applications under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Please refer to the Matter No. listed above in any correspondence on the application. copy of the application is available, for review, in the office of the MHCC, during regular business hours by appointment, or on the Commission's website at www.mhcc.maryland.gov.

All correspondence should be addressed to Wynee Hawk, Director, Center for Health Care Facilities Planning and Development, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter 443-623-1105

[23-14-10]

MARYLAND LOTTERY AND GAMING COMMISSION

Subject: Public Meeting

Date and Time: July 27, 2023, 9 — 11 a.m.

Place: Virtual Meeting

Add'l. Info: This meeting will be for presenting proposed regulations for Sports Betting, Casinos and Lottery — <https://www.mdgaming.com/commission-meeting-7-27-2023/> (livestream will be available the morning of the meeting).

Contact: Kathy Lingo 410-230-8790

[23-14-07]

SPORTS WAGERING APPLICATION REVIEW COMMISSION

Subject: Public Meeting — **CANCELLED**

Date and Time: July 19, 2023, 9 — 11 a.m.

Place: Virtual Meeting

Add'l. Info: This meeting has been cancelled.

Contact: James Butler 410-230-8781

[23-14-08]

DEPARTMENT OF TRANSPORTATION/OFFICE OF MINORITY BUSINESS ENTERPRISE

Subject: Public Meeting

Date and Time: July 26, 2023, 8 a.m. — 5 p.m.; Additional Dates: August 9, August 23, and September 6, 2023.

Place: Virtual Meeting

Add'l. Info: Meetings are being held virtually until further notice. Please check the website for additional information. <https://mdot.maryland.gov>.

Contact: Sabrina Bass 410-865-1240

[23-14-06]

MARYLAND DEPARTMENT OF VETERANS AFFAIRS/MARYLAND COLLEGE COLLABORATION FOR STUDENT VETERANS COMMISSION

Subject: Public Meeting

Date and Time: July 25, 2023, 10 a.m. — 12 p.m.

Place: Virtual Meeting

Contact: Denise Nooe 410-260-3840

[23-14-04]

WORKERS' COMPENSATION COMMISSION

Subject: Public Meeting

Date and Time: August 10, 2023, 9:30 — 11:30 a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: Portions of this meeting may be held in closed session.
Contact: Amy S. Lackington 410-864-5300

[23-14-05]

WORKERS' COMPENSATION COMMISSION

Subject: Public Meeting
Date and Time: August 10, 2023, 12 — 3 p.m.
Place: Via Microsoft Teams
Add'l. Info: A meeting of the Medical Fee Guide Committee will take place via Microsoft Teams:
Meeting ID: 289 720 056 297
Passcode: ZQV8P8
Contact: Janet Vanderpuije 410-864-5326

[23-14-12]