

# 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 07 FOREST AND PARKS

##### 08.07.06 Use of State Parks

Authority: Natural Resources Article, §5-209, Annotated Code of Maryland

#### Notice of Final Action

[19-218-F]

On December 20, 2019, the Secretary of Natural Resources adopted amendments to Regulation .02 under **COMAR 08.07.06 Use of State Parks**. This action, which was proposed for adoption in 46:22 Md. R. 988 (October 25, 2019), has been adopted as proposed.

**Effective Date: January 13, 2020.**

JEANNIE HADDAWAY-RICCIO  
Secretary of Natural Resources

## Title 09

### MARYLAND DEPARTMENT OF LABOR

#### Subtitle 35 ELEVATOR SAFETY REVIEW BOARD

##### 09.35.02 Qualifications

Authority: Public Safety Article, §§12-823(4), 12-826, 12-827(c), and 12-834, Annotated Code of Maryland

#### Notice of Final Action

[19-121-F]

On October 25, 2019, the Elevator Safety Review Board adopted new Regulations .04—.06 under **COMAR 09.35.02 Qualifications**. This action, which was proposed for adoption in 46:13 Md. R. 598—599 (June 21, 2019), has been adopted as proposed.

**Effective Date: January 13, 2020.**

ED M. HORD  
Chair

## Title 10

### MARYLAND DEPARTMENT OF HEALTH

#### Subtitle 09 MEDICAL CARE PROGRAMS

##### 10.09.37 Family Planning Program Eligibility

Authority: Health-General Article, §§2-104(b), 15-103(a), and 15-140, Annotated Code of Maryland

#### Notice of Final Action

[19-171-F]

On November 25, 2019, the Secretary of Health adopted amendments to Regulations .02—.05, the repeal of existing Regulations .06 and .07, amendments to and the recodification of existing Regulations .08, .09, and .11 to be Regulations .06, .07, and .09, respectively, and the recodification of existing Regulations .10 and .12—.15 to be Regulations .08 and .10—.13, respectively, under **COMAR 10.09.37 Family Planning Program Eligibility**. This action, which was proposed for adoption in 46:19 Md. R. 819—821 (September 13, 2019), has been adopted as proposed.

**Effective Date: January 13, 2020.**

ROBERT R. NEALL  
Secretary of Health

## Title 13A

### STATE BOARD OF EDUCATION

#### Subtitle 15 FAMILY CHILD CARE

#### Notice of Final Action

[19-193-F]

On December 5, 2019, the Maryland State Board of Education adopted:

- (1) Amendments to Regulation .02 under **COMAR 13A.15.01 Scope and Definitions;**
- (2) Amendments to Regulations .01—.03, .07, and .08 under **COMAR 13A.15.02 Registration Application and Maintenance;**
- (3) Amendments to Regulations .02—.05 under **COMAR 13A.15.03 Management and Administration;**
- (4) Amendments to Regulation .04 under **COMAR 13A.15.04 Operational Requirements;**
- (5) Amendments to Regulations .02, .05, and .06 under **COMAR 13A.15.05 Home Environment and Equipment;**
- (6) Amendments to Regulations .02—.05 under **COMAR 13A.15.06 Provider Requirements;**

(7) Amendments to Regulation **.04** under **COMAR 13A.15.07 Child Protection**;

(8) Amendments to Regulation **.01**, the repeal of existing Regulation **.03**, and the recodification of existing Regulations **.04** and **.05** to be Regulations **.03** and **.04** under **COMAR 13A.15.08 Child Supervision**;

(9) Amendments to Regulations **.01**, **.04**, and **.06** under **COMAR 13A.15.10 Child Safety**;

(10) Amendments to Regulations **.03**, **.04**, and **.06** under **COMAR 13A.15.11 Health**;

(11) Amendments to Regulation **.01** under **COMAR 13A.15.12 Nutrition**;

(12) Amendments to Regulations **.02** and **.05—09** under **COMAR 13A.15.13 Inspections, Complaints, and Enforcement**;

(13) Amendments to Regulations **.01**, **.03**, and **.04** under **COMAR 13A.15.14 Administrative Hearings**; and

(14) Amendments to Regulations **.03** and **.04** under **COMAR 13A.15.15 Public Access to Licensing Records**.

This action, which was proposed for adoption in 46:21 Md. R. 900—908 (October 11, 2019), has been adopted with the nonsubstantive changes shown below.

**Effective Date: January 13, 2020.**

#### 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:

The changes to the proposed text of the following regulations are nonsubstantive because the agency is removing the proposed text and reverting to the original existing regulatory language: (1) 13A.15.02 07A(2) and (7)(c) Denial of a Registration Application; (2) 13A.15.03.02B Admission to Care; 13A.15.03.04C(2)(a) Child Records; 13A.15.08.01D, E, F, Child Supervision; and 13A.15.13.07A(2) Revocation.

An amendment to a proposed regulation is considered substantive if it substantively affects “the rights, duties, or obligations of: (1) a member of a regulated group or profession; or (2) a member of the public.” State Government Article, §10-101(h), Annotated Code of Maryland. Regulated stakeholders support MSDE’s reversion to the original regulatory language in the above regulations. Regulated stakeholders and interested parties are not disadvantaged by the agency removing the proposed changes to the regulations and maintaining the existing language and requirements. The above changes maintain the benefits of the existing regulations and do not increase the burdens on regulated stakeholders that would have been imposed by the regulations as proposed. Because the changes do not change the position of any group affected by the regulation, decrease any benefits, or increase administrative burdens, they are deemed nonsubstantive. Reversion to the original language is consistent with nonsubstantive changes as discussed in 75 Md. Op. Atty. 27 (1990).

### 13A.15.02 Registration Application and Maintenance

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; General Provisions Article, §4-333; Human Services Article, §1-202; Annotated Code of Maryland*

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

#### .07 Denial of a Registration Application.

A. The office may deny a certificate of registration if:

(1) (proposed text unchanged)

(2) An evaluation of the application *or documents required* by the office reveals that the applicant[[, *regardless of intent,*]] reported false information;

(3)—(6) (proposed text unchanged)

(7) An evaluation of the medical report or other information about the applicant, *a coprovider*, or a resident indicates that the:

(a)—(b) (proposed text unchanged)

(c) Applicant[[, *regardless of intent,*]] submitted false or altered medical documentation for the applicant, resident, coprovider, or additional adult for consideration by the office;

(8)—(11) (proposed text unchanged)

B.—G. (proposed text unchanged)

### 13A.15.03 Management and Administration

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; General Provisions Article, §4-333; Human Services Article, §1-202; Annotated Code of Maryland*

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

#### .02 Admission to Care.

A. (proposed text unchanged)

B. If a child is younger than 6 years old at the time of admission to the home, the provider may not allow the child to remain in care at the home if the parent does not, [[within 30 days after the child’s admission]] *in accordance with COMAR 10.11.04*, submit evidence to the provider on a form supplied or approved by the office that the child has received an appropriate lead screening *or test* [[in accordance with applicable State or local requirements]].

C.—D. (proposed text unchanged)

#### .04 Child Records.

A.—B. (proposed text unchanged)

C. During the period of a child’s enrollment and for 2 years after the child’s disenrollment, a provider shall maintain a file for each child that includes records of:

(1) (proposed text unchanged);

(2) The child’s health assessment, immunizations, and allergies, if any, to include:

(a) *As required by [[State or local law]] COMAR 10.11.04, evidence that the child has received:*

(i)—(ii) (proposed text unchanged)

(b) (proposed text unchanged)

(3)—(6) (proposed text unchanged)

D. (proposed text unchanged)

### 13A.15.08 Child Supervision

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; General Provisions Article, §4-333; Human Services Article, §1-202; Annotated Code of Maryland*

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

#### .01 General Supervision.

A.—C. (proposed text unchanged)

[[*D. If the home has more than one residential level that is approved for child care:*

(1) *The provider or substitute shall ensure that, when awake, active, and indoors at the home, each child younger than 6 years old remains on the same level of the home as the provider or substitute; and*

(2) A child 6 years old or older may be on a different level of the home from the provider or substitute if:

(a) The child's status is checked by the provider or substitute often enough to ensure the child's health, safety, and welfare, but at least every 15 minutes;

(b) The provider has informed the child's parent that the child is permitted to be on a different level of the home; and

(c) The different home level is approved by the office for child care use and meets the applicable fire code requirements.]]

[[E.]] **D. Supervision of Resting Children.**

(1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:

[[a) Remain on the same level as the child;]]

[[b)]] (a) Remain within sight and sound of the child; and

[[c)]] (b) Observe the child at least every 15 minutes to determine that the child is safe, breathing normally, and in no physical distress.

(2) (proposed text unchanged)

(3) If a resting or napping child is in a different room from the provider or substitute and that room can be closed off from the rest of the home by a door, screen, or similar furnishing, the provider or substitute shall ensure that the door, screen, or similar furnishing remains open so that the view into the room is unobstructed.

[[F.]] **E.** The provider may use a video and sound monitoring system to meet the sound and sight requirement in [[§E(1)(b)]] §D(1)(a) of this regulation.

[[G.]] **E.** (proposed text unchanged)

### 13A.15.13 Inspections, Complaints, and Enforcement

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; Human Services Article, §1-202; General Provisions Article, §4-333; Annotated Code of Maryland*

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

#### .07 Revocation.

A. The office may revoke a certificate of registration if the:

(1) (proposed text unchanged)

(2) Provider[[, regardless of intent,]] misrepresented or offered false information on the application or on any form or report required by the office;

(3)—(14) (proposed text unchanged)

B.—C. (proposed text unchanged)

KAREN B. SALMON, Ph.D.  
State Superintendent of Schools

## Subtitle 16 CHILD CARE CENTERS

### Notice of Final Action

[19-194-F]

On December 3, 2019, the Maryland State Board of Education adopted:

(1) Amendments to Regulations .01 and .02 under **COMAR 13A.16.01 Scope and Definitions;**

(2) Amendments to Regulations .01—.04 and .06 under **COMAR 13A.16.02 License Application and Maintenance;**

(3) Amendments to Regulations .01—.06 and new Regulation .09 under **COMAR 13A.16.03 Management and Administration;**

(4) Amendments to Regulations .05, .12, and .13 under **COMAR 13A.16.05 Physical Plant and Equipment;**

(5) Amendments to Regulations .03—.06 and .09—.12 under **COMAR 13A.16.06 Staff Requirements;**

(6) Amendments to Regulations .02, .03, and .06 under **COMAR 13A.16.07 Child Protection;**

(7) Amendments to Regulations .01, .03, and .06 under **COMAR 13A.16.08 Child Supervision;**

(8) Amendments to Regulation .04 under **COMAR 13A.16.09 Program Requirements;**

(9) Amendments to Regulations .02 and .05 under **COMAR 13A.16.10 Safety;**

(10) Amendments to Regulations .02—.04 and .06 under **COMAR 13A.16.11 Health;**

(11) Amendments to Regulation .01 under **COMAR 13A.16.12 Nutrition;**

(12) Amendments to Regulation .02 under **COMAR 13A.16.13 Centers for Children with Acute Illness;**

(13) Amendments to Regulation .01 under **COMAR 13A.16.14 Adolescent Centers;**

(14) Amendments to Regulation .03 under **COMAR 13A.16.15 Drop-In Centers;**

(15) Amendments to Regulations .02—.04 under **COMAR 13A.16.16 Educational Programs in Nonpublic Nursery Schools;**

(16) Amendments to Regulation .01, new Regulation .03, the recodification of existing Regulation .03 to be Regulation .04, and amendments to and the recodification of existing Regulations .04—.07 to be Regulations .05—.08 under **COMAR 13A.16.17 Inspections, Complaints, and Enforcement;**

(17) Amendments to Regulations .01—.05 under **COMAR 13A.16.18 Administrative Hearings;** and

(18) Amendments to Regulation .03 and .04 under **COMAR 13A.16.19 Public Access to Licensing Records.**

This action, which was proposed for adoption in 46:21 Md. R. 909—920 (October 11, 2019), has been adopted with the nonsubstantive changes shown below.

**Effective Date: January 13, 2020.**

#### 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:

The changes to the proposed text of the following regulations are non-substantive because the agency is removing the proposed text and reverting to the original existing regulatory language: (1) 13A.16.02.06A(2) Application and Maintenance; (2) 13A.16.03.02E Admission to Care; (3) 13A.16.03.04E Child Records; (4) 13A.16.06.13 Substitutes; and (5) 13A.16.17.07A(2) Revocation.

An amendment to a proposed regulation is considered substantive if it substantively affects “the rights, duties, or obligations of: (1) a member of a regulated group or profession; or (2) a member of the public.” State Government Article, §10-101(h), Annotated Code of Maryland. Regulated stakeholders support MSDE’s reversion to the original regulatory language in the above regulations. Regulated stakeholders and interested parties are not disadvantaged by the agency removing the proposed changes to the regulations and maintaining the existing language and requirements. The above changes maintain the benefits of the existing regulations and do not increase the burdens on regulated stakeholders that would have been imposed by the regulations as proposed. Because the changes do not change the position of any group affected by the regulation, decrease any benefits, or increase administrative burdens, they are deemed nonsubstantive. Reversion to the original language is consistent with nonsubstantive changes as discussed in 75 Md. Op. Atty. 27 (1990).

The additional changes to the proposed language of 13A.16.06.04A(2) Health are also nonsubstantive. This regulation