



Carey M. Wright, Ed.D.  
Interim State Superintendent of Schools

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**TO:** Members of the State Board of Education

**FROM:** Carey M. Wright, Ed.D., Interim State Superintendent of Schools

**DATE:** December 5, 2023

**SUBJECT:** Cannabis Regulations for:  
COMAR 13A.15  
*Family Child Care*  
COMAR 13A.16  
*Child Care Centers*  
COMAR 13A.17  
*Child Care – Letters of Compliance*  
COMAR 13A.18  
*Large Family Child Care Homes*  
**PERMISSION TO ADOPT**

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**Purpose**

The purpose of this item is to request permission to adopt amendments to COMAR 13A.15 *Family Child Care*, COMAR 13A.16 *Child Care Centers*, COMAR 13A.17 *Child Care - Letters of Compliance*, and COMAR 13A.18 *Large Family Child Care Homes* to prevent inappropriate exposure to or ingestion of cannabis.

**Standard Regulation Promulgation Process**

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may be recommended to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

## **Background**

### Proposed Regulation: Preventing exposure to and ingestion of cannabis in licensed and regulated child care programs

The purpose of cannabis regulations is to establish guidelines and restrictions regarding the use, storage, and accessibility of cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts and related products in licensed and regulated child care programs. The proposed regulations are consistent throughout all four chapters. These proposed regulations expand upon the existing prohibition for smoking and use of alcohol to also prohibit vaping and any use of cannabis in the child care setting. The regulations also require the proper disposal of biocontaminants and biohazards as requested from the federal Administration for Children and Families.

The regulations ensure the safety, health, and well-being of individuals, particularly children, by implementing strict measures regarding the use, storage, and handling of cannabis and related products in different environments, including home-based child care facilities. The regulations address the particularized concern around cannabis edibles and gummies that are sometimes packaged in ways that may appear to be candy, posing a risk to children.

### Stakeholder Engagement

MSDE met with early care and education stakeholder groups to discuss this proposed regulation. Stakeholders were supportive of the proposed regulations to ensure child safety and well-being. MSDE met with the following stakeholders to discuss this proposed regulation and receive feedback.

- Office of Child Care (OCC) Advisory Council Member Meeting (June 21, 2023)

## **Executive Summary**

The proposed cannabis regulations establish guidelines and restrictions governing the use, storage, and accessibility of cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts. The amendments are consistent throughout all four chapters. The proposed regulations (13A.15.01.02, 13A.16.01.02, 13A.17.01.02, 13A.18.01.02), define cannabis as the cannabis sativa L. plant and its derivatives with a tetrahydrocannabinol (THC) concentration greater than 0.3% on a dry weight basis. The proposed regulations define cannabis to also include any product that is composed of cannabis, cannabis concentrate or cannabis extract including but not limited to cannabis vaporizing devices, edible cannabis products, and any usable cannabis products. The regulations differentiate between cannabis and hemp or hemp products, which are excluded from the definition of cannabis. The proposed regulations define

vaping as using a device that can deliver aerosolized or vaporized products, including but not limited to nicotine and cannabis, to an individual inhaling from the device.

The proposed regulations (13A.15.05.03, 13A.16.05.11, 13A.17.05.11, and 13A.18.05.11) require biohazards and biocontaminants to be disposed of in a clean and sanitary manner. This regulatory change was requested by the Federal Administration for Children and Families.

The proposed regulations (13A.15.10.02, 13A.16.10.04, 13A.17.10.04, 13A.18.10.04) expand the list of potentially hazardous items to include alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts.

The proposed regulations (13A.15.11.04, 13A.16.11.04, 13A.17.04, 13A.18.11.04) provide that the very rare administration of medical cannabis by a caregiver who is a qualifying medical cannabis patient is governed by the Maryland Department of Health regulations found at COMAR 10.62.01-10.62.37. The regulations prohibit smoking or vaping of any medical cannabis.

The proposed regulations (13A.15.11.05, 13A.16.11.05, 13A.17.11.05, and 13A.18.11.05) combine the existing regulations that address smoking and the consumption of alcohol and drugs into one regulation because cannabis, unlike alcohol and tobacco, can be both smoked and consumed. The proposed amendments also clarify and make consistent the current regulations prohibiting the use of alcohol and tobacco use to also include vaping and cannabis use and provide:

- Notice provisions of smoking, vaping, or cannabis use to parents considering placing their child in care.
- A provider and any other individual may not consume alcohol while a child is in care.
- During the hours of operation, the provider and any other individual may not smoke or vape anywhere inside the home or any outdoor area approved for child care use.
- A provider and any other individual who has child care responsibilities may not consume or be under the influence of alcohol, cannabis, or an illegal or nonprescribed controlled dangerous substance during the early care and education program's hours of operation or while providing or assisting with care during on off-site program activity or during transport.
- A provider and any other individual who has child care responsibilities shall ensure that all alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts are inaccessible to children in care.

MSDE incorporated as much feedback from stakeholders as possible into the proposed regulations. The regulations were presented to the State Board on June 27, 2023, with a request for permission to publish. The amendments were published in the Maryland Register for October 6, 2023, through November 6, 2023. MSDE received no comments for the amendments to the regulations.

## **Action**

Request that the State Board grant permission to adopt amendments to COMAR 13A.15 *Family Child Care*, COMAR 13A.16 *Child Care Centers*, COMAR 13A.17 *Child Care - Letters of Compliance*, and COMAR 13A.18 *Large Family Child Care Homes*.

## Attachments

COMAR 13A.15.01.02 *Definitions.*  
COMAR 13A.15.05.03 *Cleanliness and Sanitation.*  
COMAR 13A.15.10.02 *Potentially Hazardous Items.*  
COMAR 13A.15.11.04 *Medication Administration and Storage.*  
COMAR 13A.15.11.05 *Alcohol, Tobacco, Cannabis, and Other Drugs.*  
COMAR 13A.16.01.02 *Definitions.*  
COMAR 13A.16.05.11 *General Cleanliness and Disposal of Refuse.*  
COMAR 13A.16.10.04 *Potentially Hazardous Items.*  
COMAR 13A.16.11.04 *Medication Administration and Storage.*  
COMAR 13A.16.11.05 *Alcohol, Tobacco, Cannabis, and Other Drugs.*  
COMAR 13A.17.01.02 *Definitions.*  
COMAR 13A.17.05.11 *General Cleanliness and Disposal of Refuse*  
COMAR 13A.17.10.04 *Potentially Hazardous Items*  
COMAR 13A.17.11.04 *Medication Administration and Storage*  
COMAR 13A.17.11.05 *Alcohol, Tobacco, Cannabis, and Other Drugs*  
COMAR 13A.18.01.02 *Definitions*  
COMAR 13A.18.05.11 *Cleanliness and Sanitation.*  
COMAR 13A.18.10.04 *Potentially Hazardous Items*  
COMAR 13A.18.11.04 *Medication Administration and Storage*  
COMAR 13A.18.11.05 *Alcohol, Tobacco, Cannabis, and Other Drugs*

**Statement of Purpose**

The purpose of this action is to amend regulations to: (1) prevent inappropriate exposure to or ingestion of cannabis; and (2) specify that biocontaminants and biohazards shall be disposed of in a clean and sanitary manner, consistent with this proposal’s purpose to prevent children from being exposed to hazardous items.

**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 Keisha Maxwell, Administrator of Policy and Special Projects, Division of Early Childhood, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-7852, or email to earlychildhoodregs.msde@maryland.gov. Comments will be accepted through November 6, 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 December 5, 2023 at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

**Subtitle 15 FAMILY CHILD CARE**

**13A.15.01 Scope and Definitions**

Authority: Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, 9.5-321 and 9.5-414; Family Law Article, §§5-550—5-558; 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 Definitions.**

- A. (text unchanged)
- B. Terms Defined.

- (1)—(7) (text unchanged)
- (7-1) *Cannabis*.

(a) “*Cannabis*” means the plant *cannabis sativa L.* and any part of the plant, including:

- (i) All derivatives;
- (ii) Extracts;
- (iii) Cannabinoids;
- (iv) Isomers;
- (v) Acids;
- (vi) Salts; and
- (vii) 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 any product that is composed of cannabis, cannabis concentrate, or cannabis extract including but not limited to cannabis vaporizing devices, concentrated cannabis products, edible cannabis products, and any usable cannabis products.

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

- (8)—(35) (text unchanged)

(35-1) “*Vaping*” means using a device that can deliver aerosolized or vaporized products, including but not limited to nicotine and cannabis, to an individual inhaling from the device.

- (36) (text unchanged)

**13A.15.05 Home Environment and Equipment**

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)

**.03 Cleanliness and Sanitation.**

A.—F. (text unchanged)

G. *Biocontaminants and biohazards shall be disposed of in a clean and sanitary manner.*

**13A.15.10 Child Safety**

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 Potentially Hazardous Items.**

The provider shall properly store, and keep inaccessible to the children in care, all potentially harmful items, including, but not limited to, knives, sharp tools, firearms, matches, [alcoholic beverages,] *alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts*, petroleum, flammable products, cleaning agents, and poisonous products.

**13A.15.11 Health**

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)

**.04 Medication Administration and Storage.**

A.—G. (text unchanged).

H. *Medical Cannabis*.

(1) *The administration of medical cannabis by a caregiver to a child who is a qualifying medical cannabis patient is governed by COMAR 10.62.01—10.62.37.*

(2) *The administration of medical cannabis that includes smoking or vaping is prohibited.*

**.05 [Smoking.] Alcohol, Tobacco, Cannabis, and Other Drugs.**

A. If a resident of the family child care home smokes [cigarettes, cigars, or pipes] or vapes any substance, including but not limited to tobacco or cannabis, the provider shall make this known in advance to parents who are considering placing their children in the provider’s care.

[B. smoking Restrictions.

(1) A provider and any other individual who has child care responsibilities may not smoke in the immediate presence of a child in care.

(2) During the family child care home's approved hours of operation, if an enrolled child is or will be on the premises, the provider may not smoke or permit smoking anywhere inside the home.

C. The provider or substitute shall ensure that all cigarettes, cigars, pipes, ashes, and butts are kept out of the reach of the children in care.]

B. *A resident may not consume alcohol during the family child care home's approved hours of operation.*

C. *A provider and any other individual may not consume alcohol during the family child care home's approved hours of operation.*

D. *During the family child care home's hours of operation, if an enrolled child is or will be on the premises, the provider or any other individual may not smoke or vape or permit smoking or vaping anywhere inside the home or any outdoor area approved for child care use.*

E. *A provider and any other individual may not consume or be under the influence of alcohol, cannabis, or an illegal or nonprescribed controlled dangerous substance while:*

(1) *Present at the family child care home during the home's hours of operation; or*

(2) *Providing or assisting with the care of children on or away from the premises of the family child care home or during transport.*

F. *A provider and any other individual shall ensure that all alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts are kept out of the reach of the children in care.*

## Subtitle 16 CHILD CARE CENTERS

### 13A.16.01 Scope and Definitions

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; Family Law Article, §§5-550—5-558; 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 Definitions.

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

B. Terms Defined.

(1)—(11) (text unchanged)

(11-1) *Cannabis.*

(a) *“Cannabis” means the plant cannabis sativa L. and any part of the plant, including:*

(i) *All derivatives;*

(ii) *Extracts;*

(iii) *Cannabinoids;*

(iv) *Isomers;*

(v) *Acids;*

(vi) *Salts; and*

(vii) *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 any product that is composed of cannabis, cannabis concentrate, or cannabis extract, including but not limited to cannabis vaporizing devices, concentrated cannabis products, edible cannabis products, and any usable cannabis products.*

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

(12)—(59) (text unchanged)

(59-1) *“Vaping” means using a device that can deliver aerosolized or vaporized products, including but not limited to nicotine and cannabis, to an individual inhaling from the device.*

(60) (text unchanged)

### 13A.16.05 Physical Plant and Equipment

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; 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)

#### .11 General Cleanliness and Disposal of Refuse.

A.—C. (text unchanged)

D. Disposal of Refuse.

(1)—(4) (text unchanged)

(5) *Biocontaminants and biohazards shall be disposed of in a clean and sanitary manner.*

### 13A.16.10 Safety

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; 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)

#### .04 Potentially Hazardous Items.

A. An operator shall store all potentially harmful items, including but not limited to the items described in §§B—[E] F of this regulation, in locations which are inaccessible to children in care.

B.—E. (text unchanged)

F. *Alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts shall be stored in an approved manner.*

[F.] G.—[I.] J. (text unchanged)

### 13A.16.11 Health

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; 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)

#### .04 Medication Administration and Storage.

A.—H. (text unchanged)

I. *Medical Cannabis.*

(1) *The administration of medical cannabis by a caregiver to a child who is a qualifying medical cannabis patient is governed by COMAR 10.62.01—10.62.37.*

(2) *The administration of medical cannabis that includes smoking or vaping is prohibited.*

#### .05 [Smoking] Alcohol, Tobacco, Cannabis, and Other Drugs.

[A. Except as specified in §B of this regulation, smoking is prohibited:

(1) At all times in any indoor area of a child care center; and

(2) During the center's hours of operation, in any outdoor area of the center which is approved for child care use.

B. In a small center located in a private residence, smoking is prohibited during the center's hours of operation in any indoor or outdoor area approved for child care use.]

A. *If a resident smokes or vapes any substance, including but not limited to tobacco or cannabis, the provider shall make this known in advance to parents who are considering placing their children in the center's care.*

B. A resident may not consume alcohol during the center's approved hours of operation.

C. A provider and any other individual may not consume alcohol during the center's approved hours of operation.

D. During the center's hours of operation, if an enrolled child is or will be on the premises, the provider or any other individual may not smoke or vape or permit smoking or vaping in any indoor or outdoor area approved for child care use.

E. A provider and any other individual may not consume or be under the influence of alcohol, cannabis, or an illegal or nonprescribed controlled dangerous substance while:

(1) Present at the child care center during the center's hours of operation; or

(2) Providing or assisting with the care of children during an off-site program activity or during transport.

F. A provider and any other individual shall ensure that all alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts are kept out of the reach of the children in care.

## Subtitle 17 CHILD CARE—LETTERS OF COMPLIANCE

### 13A.17.01 Scope and Definitions

Authority: Education Article, §§9.5-401, 9.5-404, 9.5-405, 9.5-409, [905-411] 9.5-411, and 9.5-413—9.5-418; Family Law Article, §§5-550—5-558; 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 Definitions.

A. (text unchanged).

B. Terms Defined.

(1)—(6) (text unchanged)

(6-1) *Cannabis*.

(a) "*Cannabis*" means the plant *cannabis sativa L.* and any part of the plant, including:

(i) All derivatives;

(ii) Extracts;

(iii) Cannabinoids;

(iv) Isomers;

(v) Acids;

(vi) Salts; and

(vii) 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 any product that is composed of cannabis, cannabis concentrate, or cannabis extract, including but not limited to cannabis vaporizing devices, concentrated cannabis products, edible cannabis products, and any usable cannabis products.

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

(7)—(45) (text unchanged)

(45-1) "*Vaping*" means using a device that can deliver aerosolized or vaporized products, including but not limited to nicotine and cannabis, to an individual inhaling from the device.

(46) (text unchanged)

### 13A.17.05 Physical Plant and Equipment

Authority: Education Article, §§9.5-401, 9.5-404, 9.5-405, 9.5-409, [905-411] 9.5-411, and 9.5-413—9.5-418; 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)

#### .11 General Cleanliness and Disposal of Refuse.

A.—B. (text unchanged)

C. Disposal of Refuse.

(1)—(3) (text unchanged)

(4) *Biocontaminants and biohazards shall be disposed of in a clean and sanitary manner.*

### 13A.17.10 Safety

Authority: Education Article, §§9.5-401, 9.5-404, 9.5-405, 9.5-409, [905-411] 9.5-411, and 9.5-413—9.5-418; 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)

#### .04 Potentially Hazardous Items.

A. An operator shall store all potentially harmful items, including but not limited to the items described in §§B—[E] F of this regulation, in locations which are inaccessible to children in care.

B.—E. (text unchanged)

F. *Alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts shall be stored in an approved manner.*

[F.] G.—[I.] J. (text unchanged)

### 13A.17.11 Health

Authority: Education Article, §§9.5-401, 9.5-404, 9.5-405, 9.5-409, [905-411] 9.5-411, and 9.5-413—9.5-418; 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)

#### .04 Medication Administration and Storage.

A.—H. (text unchanged)

I. *Medical Cannabis.*

(1) *The administration of medical cannabis by a caregiver to a child who is a qualifying medical cannabis patient is governed by COMAR 10.62.01—10.62.37.*

(2) *The administration of medical cannabis that includes smoking or vaping is prohibited.*

#### .05 [Smoking] Alcohol, Tobacco, Cannabis, and Other Drugs.

[Smoking or is prohibited:

A. At all times in any indoor area of the child care facility; and

B. During the facility's hours of operation, in any outdoor area of the facility which is approved for child care use.]

A. *If a resident smokes or vapes any substance, including but not limited to tobacco or cannabis, the provider shall make this known in advance to parents who are considering placing their children in the facility's care.*

B. *A resident may not consume alcohol during the facility's approved hours of operation.*

C. *A provider and any other individual may not consume alcohol during the facility's approved hours of operation.*

*D. During the facility’s hours of operation, if an enrolled child is or will be on the premises, the provider or any other individual may not smoke or vape or permit smoking or vaping in any indoor or outdoor area approved for child care use.*

*E. A provider and any other individual may not consume or be under the influence of alcohol, cannabis, or an illegal or nonprescribed controlled dangerous substance while:*

*(1) Present at the facility during the facility’s hours of operation;*

*or*

*(2) Providing or assisting with the care of children during an off-site program activity or during transport.*

*F. The provider and any other individual shall ensure that all alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts are kept out of the reach of the children in care.*

## Subtitle 18 LARGE FAMILY CHILD CARE HOMES

### 13A.18.01 Scope and Definitions

Authority: Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, 9.5-321 and 9.5-414; Family Law Article §§5-550—5-558; 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 Definitions.

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

B. Terms Defined.

(1)—(7) (text unchanged)

(7-1) *Cannabis.*

(a) “*Cannabis*” means the plant *cannabis sativa L.* and any part of the plant, including:

(i) *All derivatives;*

(ii) *Extracts;*

(iii) *Cannabinoids;*

(iv) *Isomers;*

(v) *Acids;*

(vi) *Salts; and*

(vii) *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 any product that is composed of cannabis, cannabis concentrate, or cannabis extract, including but not limited to cannabis vaporizing devices, concentrated cannabis products, edible cannabis products, and any usable cannabis products.

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

(8)—(48) (text unchanged)

(48-1) “*Vaping*” means using a device that can deliver aerosolized or vaporized products, including but not limited to nicotine and cannabis, to an individual inhaling from the device.

(49) (text unchanged)

### 13A.18.05 Home Environment and Equipment

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)

#### .11 Cleanliness and Sanitation.

A.—B. (text unchanged)

C. Disposal of Refuse.

(1)—(4) (text unchanged)

(5) *Biocontaminants and biohazards shall be disposed of in a clean and sanitary manner.*

### 13A.18.10 Safety

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)

#### .04 Potentially Hazardous Items.

A. A provider shall store all potentially harmful items, including but not limited to the items described in §§B—[E] *F* of this regulation, in locations which are inaccessible to children in care.

B.—E. (text unchanged)

*F. Alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts shall be stored in an approved manner.*

[F.] *G.*—[H.] *I.* (text unchanged)

### 13A.18.11 Health

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)

#### .04 Medication Administration and Storage.

A.—H. (text unchanged).

*I. Medical Cannabis.*

(1) *The administration of medical cannabis by a caregiver to a child who is a qualifying medical cannabis patient is governed by COMAR 10.62.01—10.62.37.*

(2) *The administration of medical cannabis that includes smoking or vaping is prohibited.*

#### .05 [Smoking] Alcohol, Tobacco, Cannabis, and Other Drugs.

[Smoking is prohibited in any indoor or outdoor area approved for child care use during the child care home’s hours of operation].

A. *If a resident smokes or vapes any substance, including but not limited to tobacco or cannabis, the provider shall make this known in advance to parents who are considering placing their children in the large family child care home’s care.*

B. *A resident may not consume alcohol during the large family child care home’s approved hours of operation.*

C. *A provider and any other individual may not consume alcohol during the large family child care home’s approved hours of operation.*



D. During the large family child care home's hours of operation, if an enrolled child is or will be on the premises, the provider or any other individual may not smoke or vape or permit smoking or vaping in any indoor or outdoor area approved for child care use.

E. A provider and any other individual may not consume or be under the influence of alcohol, cannabis, or an illegal or nonprescribed controlled dangerous substance while:

(1) Present at the large family child care home during the home's hours of operation; or

(2) Providing or assisting with the care of children during an off-site program activity or during transport.

F. The provider and any other individual shall ensure that all alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts are kept out of the reach of the children in care.

MOHAMMED CHOUDHURY  
State Superintendent of Schools

**Notice of Proposed Action**

[23-207-P]

The State Board of Education proposes to:

(1) Adopt new Regulation .04-1 under **COMAR 13A.15.13 Inspections, Complaints, and Enforcement;**

(2) Amend Regulations .01 and .02 under **COMAR 13A.15.14 Administrative Hearings;**

(3) Adopt new Regulation .04-1 under **COMAR 13A.16.17 Inspections, Complaints, and Enforcement;**

(4) Amend Regulations .01 and .02 under **COMAR 13A.16.18 Administrative Hearings;**

(5) Adopt new Regulation .04-1 under **COMAR 13A.17.15 Inspections, Complaints, and Enforcement;**

(6) Amend Regulations .01 and .02 under **COMAR 13A.17.16 Administrative Hearings;**

(7) Adopt new Regulation .04-1 under **COMAR 13A.18.14 Inspections, Complaints, and Enforcement;** and

(8) Amend Regulations .01 and .02 under **COMAR 13A.18.15 Administrative Hearings.**

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 authorize the Maryland State Department of Education, Office of Child Care (OCC), to issue intermediate sanctions on an emergency basis upon determining that a child care provider has violated child care regulations and that action is necessary to protect the health, safety, or welfare of children in care. The emergency intermediate sanctions that will be available to the OCC include restricting the ages of children in care; reducing the number of children in care; limiting the spaces, rooms, or areas that may be used for child care; prohibiting an employee, staff member, substitute, or volunteer who has successfully passed all required background checks from being alone with a child or group of children pending an open child protective services or criminal investigation; requiring the provider or staff to participate in training; and increasing the frequency of monitoring. Since emergency intermediate sanctions will go into effect immediately upon issuance, providers will be notified in writing and given appeal rights, including the right to an expedited hearing before the Office of Administrative Hearings. This action will allow the OCC to take immediate action, as appropriate, without necessarily suspending a child care program in its entirety, which is the only option available on an emergency basis under current regulations.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** While the emergency suspension of a child care program negatively impacts revenue for the program, the proposed action could lessen that impact if an intermediate sanction such as the closing of a room or limiting capacity is imposed instead. Under current regulation, a suspension is the only option available when emergency action is necessary. When programs are closed during the period of suspension, it may result in families seeking care elsewhere and potentially not returning. In addition, depending on the contract between the program and the families served, some programs are required to refund families a portion of tuition fees already paid. The proposed action will benefit child care programs because they may lose fewer families if care can continue in rooms that are not affected by the emergency situation and they may only need to refund tuition for the room or children impacted, rather than the entire program. The proposed action will not have an impact on the OCC because the agency will be able to implement the regulations using existing resources.

**II. Types of Economic Impact.**

Impacted Entity	Revenue	Magnitude
	(R+/R-) Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Child care centers	(-)	Unknown
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Child care centers	(-)	Unknown

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

D. Family Child Care Homes, Child Care Centers, Letters of Compliance (LOC), and Large Family Child Care Homes may sustain less of an economic impact from the proposed action because, instead of suspending an entire program, the Office of Child Care will have the option to only close a room/portion of the program, as appropriate. As a result, the program's loss of revenue will be limited to the room/families involved.

F. The proposed action will decrease the impact on families served at family child care homes, child care centers, letters of compliance, and large family child care homes where the Office of Child Care has identified noncompliance. Currently, when a program is suspended as a result of an emergency, all the families served are displaced until further notice, even if the health and safety concern might be able to be limited to particular rooms or staff. As a result, families have to seek care elsewhere, which consists of paying new and potentially increased enrollment and tuition fees, taking unscheduled leave from work due to a lack of child care options, uprooting a child from a familiar setting to an unknown location, and the inconvenience of getting mandated forms submitted and changing pick-up and drop-off routines. These inconveniences usually result in some families remaining at the new location.