OCTOBER 1, 2008

REGULATORY REVIEW AND EVALUATION ACT

EVALUATION REPORTS FOR:

Subtitle 26 BOARD OF ACUPUNCTURE
Subtitle 27 BOARD OF NURSING
Subtitle 28 BOARD OF EXAMINERS IN OPTOMETRY
Subtitle 29 BOARD OF MORTICIANS AND FUNERAL DIRECTORS
Subtitle 30 COMMISSION ON KIDNEY DISEASE
Subtitle 39 BOARD OF NURSING — CERTIFIED NURSING ASSISTANTS

SUBMITTED BY:

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EXEMPTIONS

In accordance with State Government Article, §10-132-1, Annotated Code of Maryland, the Secretary of Health and Mental Hygiene has certified to the Governor and the AELR Committee that a review of the following chapters would not be effective or cost-effective and therefore are exempt from the review process based on the fact that they were either initially adopted (IA) or comprehensively amended (CA) during the preceding 8 years:

Subtitle 26 BOARD OF ACUPUNCTURE
10.26.04 Rules of Procedure for Board Hearings (IA: July 22, 2002)
10.26.05 Compelling Purpose Disclosure (IA: October 1, 2001)

Subtitle 27 BOARD OF NURSING
10.27.01 Examination and Licensure (CA: April 30, 2001)
10.27.03 Nursing Education Programs (CA" March 5, 2001)
10.27.06 Practice of Nurse Anesthetist (CA: April 3, 2000)
10.27.08 Petition for Declaratory Ruling (CA: April 16, 2001)
10.27.09 Standards of Practice for Registered Nurses (CA: April 3, 2000)
10.27.11 Delegation of Nursing Functions (CA: May 10, 2004)
10.27.12 Nurse Psychotherapists in Independent Practice (CA: June 26, 2000)
10.27.13 Rehabilitation Committee (CA: March 5, 2001)
10.27.19 Code of Ethics (CA: September 16, 2002)
10.27.21 Registered Nurse—Forensic Nurse Examiner (CA: April 28, 2003)
10.27.22 Multistate Licensure Compact Regulations (IA: April 17, 2000)
10.27.23 Code of Conduct for Board Members and Investigators (IA: December 25, 2000)
10.27.24 Compelling Purpose Disclosure (IA: July 23, 2001)

Subtitle 28 BOARD OF EXAMINERS IN OPTOMETRY
10.28.03 Examination and Licensing of Optometrists (CA: February 19, 2001)
10.28.04 Rules of Procedure for Board Hearings (CA: September 3, 2001)
10.28.14 Code of Conduct (CA: July 31, 2006)
10.28.15 Compelling Purpose Disclosure (IA: January 7, 2002)
10.28.16 Selling and Dispensing of Contact Lenses (IA: January 16, 2006)

Subtitle 29 BOARD OF MORTICIANS AND FUNERAL DIRECTORS
10.29.01 Hearing Procedures (CA: March 5, 2001)
10.29.03 Inspection of Funeral Establishments and Funeral Service Businesses (CA: November 26, 2001)
10.29.13 Rehabilitation Committee (IA: January 7, 2002)
10.29.14 Compelling Purpose Disclosure (IA: April 15, 2002)

Subtitle 30 COMMISSION ON KIDNEY DISEASE
10.30.01 General Regulations (CA: December 22, 2003)
10.30.02 Physical and Medical Standards (IA: December 22, 2003)
10.30.03 Transmissible Diseases (IA: December 22, 2003)
10.30.04 Dialyzer Reuse and Water Standards (IA: December 22, 2003)
10.30.05 Fee Schedule (IA: December 22, 2003)

Subtitle 39 BOARD OF NURSING — CERTIFIED NURSING ASSISTANTS
10.39.01 Certification of Nursing Assistants (IA: February 5, 2001)
10.39.02 Nursing Assistant Training Programs (IA: April 30, 2001)
10.39.03 Certified Medicine Aides (CA: March 14, 2005)
10.39.04 Medication Technicians (IA: April 24, 2006)
10.39.07 Certified Nursing Assistants/Certified Medical Technicians (CNA/CMT)—Code of Ethics

CHAPTERS THAT HAVE BEEN REPEALED / TRANSFERRED / OR ARE PENDING ADOPTION

In addition, the following chapters have been repealed, transferred or are pending initial adoption and therefore are not part of the Regulatory Review:

Subtitle 27 BOARD OF NURSING
10.27.04 Licensed Practical Nursing Education Programs - Repealed
10.27.14 Nursing Staff Agencies - Transferred to 10.07.03

Subtitle 28 BOARD OF EXAMINERS IN OPTOMETRY
10.28.01 Board Procedures - Repealed

Subtitle 39 BOARD OF NURSING — CERTIFIED NURSING ASSISTANTS
10.39.05 pending initial adoption
10.39.06 pending initial adoption

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Chapter Codification: 10.26.01, 10.26.02 and 10.26.03

Chapter Name: Board of Acupuncture

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316; Agriculture Article, §§2-301(g) and 2-304

Date Originally Adopted or Last Amended: Regulation 10.26.02.09 amended effective November 7, 2005

Purpose: These chapters govern the practice of acupuncture, and establish fees and hearing procedures for the Board of Acupuncture.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Maryland Acupuncture Society (attend board meetings when regulation changes are discussed).
Licensees and other health boards (regulation changes are published in newsletters and Maryland Register.
Public (regulations changes published in MD register)

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and

(e) any public hearing held.

Regulation changes are published in the MD register and biannual newsletters and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments.

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

Following a national trend, the Board is recommending that general regulations be amended to require ethics training as part of the continuing education requirements.

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

n/a

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

(x) amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

1. Under COMAR 10.26.02 General Regulations:

The Board voted to reflect the merge of the AAOM and Alliance and change/delete the names accordingly. The Board also voted to require that at least 3 hours of ethics training be earned every 4 years as a basis for licensure and to clarify that auricular detoxification specialists must work directly in chemical dependency programs. The Board is also deleting section D (2) under Auricular Detoxification Specialist as recommended by Board Counsel. Employment records for auricular detoxification specialists are the responsibility of the clinic in which the specialist works, not the supervisor; and

In June 1998, the Board created 2 regulations that allowed students that did not have clinical training available in their school, to complete clinical hours in Maryland under the supervision of a licensed acupuncturist. Because ACAOM would never allow this type of practice today, the Board no longer sees the need for the regulation and voted to delete these sections.

2. Under COMAR 10.26.01 Fee Schedule, the Board voted to include auricular detoxification specialists in the fee schedule since they pay an initial registration and renewal fee and also voted to delete the clause that separated acupuncturists from the Physicians Board in 1994. The Board also voted to delete fees that allowed course equivalency review and application for professional corporate name since these fees were never enforced or collected since their inception and to reduce the reinstatement fee to $200.

Person performing review: Penny K. Heisler

Title: Executive Director

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Chapter Codification: 10.27.02.01 - .09

Chapter Name: Hearing Procedures

Authority: Health Occupations Article §8-205(a)(1), Annotated Code of Maryland

Date Originally Adopted or Last Amended: Last Amended March 14, 2005

Purpose: The chapter conforms with the Maryland Rules of Civil Procedure and the Administrative Procedure Act to provide rules for conducting fair and orderly hearings before the Board. Included in this chapter are rules for discovery and notice to all parties.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [X] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Board staff, Board counsel, and Board members reviewed the regulations. Depending on the outcome of the study being performed by the Task Force to study the Health Regulatory Boards, this chapter may require amending at some future date and public comment will be invited at that time.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and

(e) any public hearing held.

Notice was published in the Maryland Register in 2001 and 2005 that the Board would be considering regulations for this chapter in a public meeting. Notice of public meetings of the Board are also published on the Board's web-site..

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

No comments were received on the amendments of 2001 and 2005.

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

There was no interunit conflict. The Board promulgated amendments to this chapter in 2001 and 2005 that mirrored the regulations of other health regulatory boards.

(6) Provide a summary of any relevant scientific data gathered.

Not applicable to this chapter.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

The hearing procedures for this Board are similar to those in other states. All use discovery and notice rules that closely resemble this Board's and all provide for a chance to be heard before some hearing body. What does differ is the venu for a hearing. Some states conduct open disciplinary hearings but most hold disciplinary hearings in closed Executive Session. This Board conducts it hearings in Executive Sessions because of the confidentiality required for discipline.

(8) Provide a summary of any other relevant information gathered.

The National Council of State Boards of Nursing profile of 58 respondent Boards found that 13 Boards conduct their formal disciplinary hearings with a Hearing Examiner; 26 Boards use an Administrative Law Judge; 18 states use the full Board; 12 states use a panel of the Board; and 17 states use the Board Chairman or the chair's designee. All states have a process for the appeal of a final board disciplinary order.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [X] No

Has the agency promulgated all regulations required by recent legislation? [X] Yes [ ] No

Provide explanations of the above responses, as needed:

In 2001 the Board added regulation 10.27.02.01-3, Discovery, to this chapter. The new regulation codified discovery and pre-hearing disclosure requirements, such as a providing lists of witnesses or expert witnesses; establishing deadlines for discovery; establishing rules for ongoing discovery; and establishing deadlines for adding additional documents or witnesses.

In 2005 the Board amended 10.27.02.01 and .06 to include nursing assistants and electrologists and corrected a grammatical error.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

X no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

The amendments and new regulations added to this chapter were in response to the Board's expanded authority to certify and license nursing assistants and electropogists or to comply with hearing procedures adopted by all of the health regulatory boards. The chapter is adequate for the Board's present needs.

Person performing review: Shirley A. Devaris, RN, JD

Title: Policy Analysis and Legislation

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Chapter Codification: COMAR 10.27.05 .01-.11

Chapter Name: Practice of Nurse Midwifery

Authority: Health Occupations Article, §§ 8-205(a) and 8-602, Annotated Code of Maryland

Date Originally Adopted or Last Amended: Last amended March 1, 2004

Purpose: The purpose of this chapter is to establish rules to govern the practice of Nurse Midwifery.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [X] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Input was received from the Nurse Midwife community including the Maryland Association of Nurse Midwifes.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notice of the proposed amendments to the regulations was published in the Maryland Register and notice of the public Board meeting to discuss and approve the regulations on the Board's web site.

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

According to Board files, no comments were received .

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

There was no interunit conflict.

(6) Provide a summary of any relevant scientific data gathered.
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In recent years midwives have become another alternative for women with low-risk, uncomplicated pregnancies. In Europe, midwives assist at more than 70% of normal vaginal births. Though midwives delivered only 7% of American babies in 2003, that percentage has been increasing since 1975. About 96% of births in the United States assisted by certified nurse-midwives occur in hospitals. There was a movement by the medical profession early in the 20th century to discourage the use of midwives because of the high incidence of poor birthing outcomes. Mortality rates have decreased markedly since training became available for nurse midwives in 1932. A 1998 study from the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), published in the May (1998) issue of the "Journal of Epidemiology and Community Health," examined all single, vaginal births in the United States in 1991 delivered at 35 to 43 weeks of gestation by either physicians or certified nurse midwives. The study concluded that the risk of experiencing an infant death was 19 percent lower for births attended by certified nurse midwives than for births attended by physicians. The risk of neonatal mortality (an infant death occurring in the first 28 days of life) was 33 percent lower, and the risk of delivering a low birth weight infant was 31 percent lower. Mean birth weight was 37 grams heavier for the certified nurse midwife attended than for the physician attended births. Low birth weight is a major predictor of infant mortality, subsequent disease, or developmental disabilities. Infant mortality rates in the United States have gone up and the increase is attributed to the performance of more Caesarean sections for delivery and new reporting statistics not heretofore tabulated.

Bearing in mind that midwives do not accept high-risk pregnancy cases, infant mortality rates with midwife-assisted births also compare favorably with other types of births, according to the *American Journal of Health*. The journal reports that the infant mortality rate is 10 per 1,000 hospital births, 30 per 1,000 of unattended home-births and three per 1,000 midwife-attended births.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

Nurse midwives and nurse anesthetists laid the foundation early in the 20th century for what is now known as the advance practice nurse. There are about 4000 Certified nurse midwives (CNM) in the United States who provide prenatal and gynecological care to normal healthy women; provide family planning; deliver babies in hospitals, private homes, and birthing centers; and provide post-partum care. In Maryland Nurse Midwives work under an agreement with a physician and they do not provide home birthing services. There is a second group of midwives, that is growing nationally and is legally recognized in 29 states, called Certified Professional Midwives (CPM) . Both groups are certified by the American College of Nurse Midwives. CPM's are not certified or licensed in Maryland. CPM's are usually not Registered nurses and their practice is strictly limited to midwifery. Both groups are limited in their practice by the laws and restrictions in their states.

(8) Provide a summary of any other relevant information gathered.

There is a movement in the United States towards Professional Midwifery: a process through which those aspiring to be midwives can proceed and at the end be called a CERTIFIED PROFESSIONAL MIDWIFE (CPM).

Obtaining hospital privileges in the United States is a critical element in a midwife's ability to practice and use the resources found within the hospital, such as the lab, radiology and the emergency room. Hospital by- laws can be written to either include or exclude this non-physician provider. Some by-laws require physician supervision and sometimes their presence at the birth. Other by-laws are more liberal. CNMs have made many strides over the past few years, and many hospitals are receptive to midwives. Women are requesting the care of midwives, and hospitals choose to offer this option.

. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [X] No

Has the agency promulgated all regulations required by recent legislation? [X] Yes [ ] No

Provide explanations of the above responses, as needed:

In 2000 the Board amended 10.27.05.01, .02, .05 and .09 to amend the initials and name of the national certifying council to conform with its name change and inserted language to permit the Board, in the future, to recognize and alternate certifying body.

In 2004, the Board repealed and re-introduced regulation 10.27.05.02 that established rules for certification by the Board; rules for what is to be included in a written agreement between a nurse midwife and a physician concerning the performance of delegated nursing functions and the medications that a nurse midwife can prescribe; and required the Board to maintain a list of certified nurse midwives. The Board is also required to note their specialty on their license. At the same time regulations 10.27.05.01, .06, .07, and .11were amended to comply with the name change of the Board of Physician Quality Assurance (BPQA) to the Maryland Board of Physicians (MBP).

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

X no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

The profession may actually experience a future retraction in growth related to the expense of malpractice insurance. If a nurse midwife joins a medical practice, that practice has to take on a greater risk factor causing the malpractice insurance to increase. Malpractice insurance increases over time for physicians and nurse midwives alike due to the, as yet, undiscovered cause for a claim. In most states the right to raise a claim against someone's malpractice insurance exists until the baby reaches 18 or 21 years of age or within a certain number of years post majority or within a certain number of years of discovery after majority. Nurse midwives are finding it increasingly difficult in Maryland to join practices and find physicians who will enter into an agreement with them because of the malpractice insurance expense.

Person performing review: Shirley A. Devaris, RN, JD

Title: Policy Analysis and Legislation

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Chapter Codification: COMAR 10.27.07

Chapter Name: Practice of Nurse Practitioner

Authority: Health Occupations Article, §§ 8-205(a), Annotated Code of Maryland

Date Originally Adopted or Last Amended: Last amended August 29,1994

Purpose: The purpose of the chapter is to establish: licensure and practice requirements for Nurse Practitioners; a joint committee with the Nursing and Medical Boards (Board of Physicians) to develop a written framework for agreements between nurse practitioners and collaborating physicians; rules for certification and renewal of certification; prescriptive authority and rules for dispensing medications; and unlawful practices.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations appropriate for amendment or repeal? [X] Yes [ ] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The regulations need to be amended to reflect statutory changes. The Nurse Practitioner Peer Review Committee, representative of different providers, met six times between November, 2005 - December, 2006 to propose revisions to these regulations. Those revisions have not been jointly promulgated. Since that time additional statutory changes have occurred that require other changes. These changes will be drafted and presented to the Joint Committee on Nurse Practitioners so that committee may make recommendations to the Board regarding promulgation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

The Board of Physicians (Formerly Board of Physician Quality Control) reviewed the regulations that were revised in 2006.

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notice of the Public meetings for the Board of Nursing and the Board of Physicians are published in the Maryland Register and on the Board of Nursing's web-site.

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

There are no comments as the amendments have not been published .

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

Language approved by the Board of Nursing for promulgation in December 2007, was objected to by the Board of Physicians. The Board of Nursing withdrew its approval to promulgate the proposed regulations in March, 2007 and a joint meeting will be scheduled to discuss the language after the regulations have been revised to conform with recent statutory changes. The scope of practice issue and the independence of the NP continues to be an issue.

(6) Provide a summary of any relevant scientific data gathered.

Only limited literature has described the collaborative practice model. Most studies conclude that a collaborative practice model in which the NP and Physician deliver care in tandem is beneficial to the patients and their families because of the comprehensive patient oriented care. The studies cite the benefits of multiple disciplines across a continuum of care; more efficient communication with the patient; the accessibility of a specialty team; and the timely implementation of patient interventions.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

Advanced Practice Registered Nurses (APRN's) are regulated as a separate group by 52 Boards of Nursing according to the National Council of State Boards of Nursing. APRN"S include four major categories of advanced practice; Nurse Practitioners (NP); Clinical Nurse Specialists (CNS); Certified Registered Nurse Anesthetists (CRNA); and Nurse Midwives (CNM). At least 51 states (includes DC) allow NP's to prescribe medications. Eleven of those state allow NP's to prescribe with no physician involvement. As to Physician involvement: seven states allow NP's to practice without any Physician involvement; ten states have no Physician involvement except for prescribing drugs; 11 states require Physician supervision and collaboration; 20 states only require physician collaboration; and 3 states only require Physician supervision.

(8) Provide a summary of any other relevant information gathered.

There are an estimated 145,000 NP's working in the United States. NP's are an important part of the health care delivery system. They practice in diverse areas of medicine and settings. NP's do physical exams, diagnose, develop treatment plans, do preventive medicine, order and interpret lab tests and x-rays, prescribe medications and durable medical equipment, provide counseling and education, and refer patients to other providers. The types of services that NP's provides depends on state law.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [X] No

Has the agency promulgated all regulations required by recent legislation? [ ] Yes [X] No

Provide explanations of the above responses, as needed:

As mentioned in Paragraph (5) these regulations have to be amended to reflect recent legislation.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

X amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

It is not expected that any substantive changes will be made when the regulations are amended. The amendments will conform language to enacted legislation (i.e., change Physician Board of Quality Assurance to State Board of Physicians) and replace archaic language with more current language.

Person performing review: Shirley A. Devaris, RN, JD

Title: Policy Analysis and Legislation

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Chapter Codification: COMAR 10.27.10

Chapter Name: Standards of Practice for Licensed Practical Nurses

Authority: Health Occupations Article, §§ 8-205(a), Annotated Code of Maryland

Date Originally Adopted or Last Amended: October 25,1993

Purpose: The purpose of the Chapter is to establish licensure and practice requirements for Licensed Practical Nurses (LPN).

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations appropriate for amendment or repeal? [X] Yes [ ] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

A 19 member Practice Issues Committee met almost every month starting in March, 2005-June, 2008 to draft amendments to the current Chapter. The committee represented a diverse group of Practioners from different practices and setting. Several draft version were presented to the Board before a final version was presented on June 24, 2008. The Board accepted the report of the committee.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

The Health Facilities Association of Maryland (HFAM), representing long term care facilities and LifeSpan, representing assisted living facilities, met with staff in June, 2007, to offer their comments.

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

The Board published notice in the Maryland Register of its public meeting to consider the amended regulations and the draft regulations were placed on the Board's web page from November, 2006-January, 2007 to solicit community response.

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

1. Premier Home Care – Supported proposed amendments.
2. Jan Borisvecuc, LPN – Objected to amendments in general and changing definitions. Objected to defining assessment and limiting a comprehensive assessment to Registered Nurses only.
3. Spring Dell Center, Inc. DDA Provider Agency – wanted to add clarifying language and asked for a definition of "critically watching" and asking if the term "safe" applied only to nursing.
4. Anonymous - Had questions about what the LPN would be checking in the environment; if continuing education was required; what kind of support was needed for collegiality; how to maintain confidentiality when sharing information; objection to not being able to perform triage; and not being able to analyze client data to determine client outcome and diagnosis.
5. Maryland Assoc. of Community Services for persons with Developmental Disabilities (MACS) – wants to add that an LPN may not serve as a case manager in delegating nursing tasks.
6. Health Facilities Association of Maryland (trade association for long term care) – wants an LPN to be able to perform a comprehensive assessment within long term care; wants LPN's to be able to change a care plan rather than contribute and recommend changes to a care plan; objected that proposal could prohibit an LPN from making assignments; objected to an LPN not being able to support the professional development of a Registered Nurse; wants an LPN to be able to delegate to another LPN or RN; wants to clarify that refusal of a responsibility must be made before the supervision is accepted; objected to an LPN not being able to serve as a case manager; and objected to the provision that an LPN may not supervise another LPN.
7. Anne Arundel Community College, Department of Nursing – objected to the provision that LPN's cannot supervise other LPN's; wants LPN's to be able to precept other LPN's and act as charge nurses; wants LPN's to be able to evaluate other LPN's.
8. Mid Atlantic LifeSpan (trade association for long term care and assisted living)- opposed to the prohibition that against LPN's doing comprehensive assessments and the prohibition on LPN's supervising other LPN's.

The Board is taking all the community comments into consideration before promulgating the regulations. Appropriate responses will be made after the amended regulations are published.

(5) Describe any inter unit conflict reviewed and the resolution or proposed resolution of that conflict.

There is no inter unit conflict.

(6) Provide a summary of any relevant scientific data gathered.

There are very few studies documenting the relationship of LPN care to patient outcomes. All of the patient outcome studies relate to the effect of understaffing on patient outcomes.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

State Practice Acts regulate the scope of an LPN's practice either by using an extensive list of duties they may do or by setting some minimal rules for scope of practice and stating that an LPN may perform duties consistent with the patient's acuity level, the nurses' educational preparation and any appropriate additional training. Some states permit LPN's to do a comprehensive assessment of a patient's health and make changes to a treatment plan. Most states do not and limit this duty to performance by a Registered Nurse (RN). Some states permit LPN's to supervise, train and mentor other LPN's. Some do not. All states require that an LPN must practice under the a licensed physician, optometrist, dentist, psychologist or RN.

(8) Provide a summary of any other relevant information gathered.

LPN' are now and have historically been an important part of the health care workforce in hospitals and long term care facilities. There are over 700,000 LPN's employed in the United States. In general LPN's are more generally employed in long term care facilities, rehabilitation units, and outpatient clinics. LPN's offer an attractive less expensive alternative to staffing with RN's. The number of enrollees in LPN teaching programs has doubled and some schools have a year's wait before admitting applicants but the current workforce of LPN's is aging. LPN's could be used to augment the workforce experiencing a shortage of RN's. However, the role of an LPN is limited by their scope of practice. How much they can be used depends on the ability of states to create a more flexible LPN scope of practice (HRSA report)

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [X] Yes [ ] No

Has the agency promulgated all regulations required by recent legislation? [ ] Yes [X] No

Provide explanations of the above responses, as needed:

New regulations have to be drafted to address the statutory criminal history record checks now being done.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

X amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter has not been amended in 15 years. It has a very limited description of an LPN's scope of practice. There is going to be resistance to changing the status quo but the amendments are necessary to reflect changes in today's practice environment.

Person performing review: Shirley A. Devaris, RN

Title: Policy Analysis and Legislation

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: COMAR 10.27.15

Chapter Name: OPEN MEETINGS

Authority: Health Occupations Article, §8-205(a); State Government Article §§10-502h(2) 10-505, and 10-507, Annotated Code of Maryland

Date Originally Adopted or Last Amended: Adopted September 13, 1993

Purpose: To establish rules for open meetings and promote the transparency of state government..

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [X] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

No amendments are needed or contemplated, therefore no stakeholders were invited to review this Chapter.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None.

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

If notice was needed it would have been published in the Maryland Register and on the Board's web- page.

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

Not applicable.

(5) Describe any inter unit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

All 50 states have some kind of open meeting law or "Sunshine "law. The acts vary as to what meetings are covered. Some states exclude personnel or disciplinary hearings from the open meetings law.

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [X] No

Has the agency promulgated all regulations required by recent legislation? [X] Yes [ ] No

Provide explanations of the above responses, as needed:

NA

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

X no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

Open meeting laws promote transparency in government and set rules for access to public meetings. All are affected by privacy considerations.

Person performing review: Shirley A. Devaris, RN, JD

Title: Policy Analysis and Legislation

Regulatory Review and Evaluation Act
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Chapter Codification: COMAR 10.27.16

Chapter Name: Registered Nurse – Worker's Compensation Medical Case Manager

Authority: Health Occupations Article, § 8-205, Annotated Code of Maryland

Date Originally Adopted or Last Amended: November 15, 1999

Purpose: To establish rules for practice and certification of Registered Nurse worker's compensation medical case manager (RN-WCCM).

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [X] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Stakeholders would be the Worker's Compensation Commission and RN-WCCM's

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

Workman Compensation insurers might be interested in any future amendments.

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;

(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notice of the Board's public meetings are published in the Maryland Register and on the Board's web page.

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

No amendments have been proposed for comment.

(5) Describe any inter unit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

NA

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

NA

(8) Provide a summary of any other relevant information gathered.

There are about 400 RN-WCCM in Maryland. They are certified by the Board after completing a series of Board approved required courses. They have to take a refresher course if they have not practiced for 1,000 hours as a RN-WCCM in the year prior to renewal.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [X] No

Has the agency promulgated all regulations required by recent legislation? [X] Yes [ ] No

Provide explanations of the above responses, as needed:

NA

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

X no action

_ amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This Chapter does not need amending.

Person performing review:	Shirley A. Devaris, RN, JD
Title:	Policy Analysis and Legislation

Regulatory Review and Evaluation Act
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Chapter Codification: COMAR 10.27.17

Chapter Name: Advanced Practice Nurses – HCACC User Fee Collection

Authority: Health Occupations Article, §§1-209 and 8-205, Annotated Code of Maryland

Date Originally Adopted or Last Amended: January 22, 2001

Purpose: To establish rules for collecting a statutorily required annual assessment on licensed nurses to be applied to the support of the Health Care Access and Cost Commission (now the Maryland Health Care Commission).

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [X] Yes [ ] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Board of Nursing is a stakeholder.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

Everyone who pays a user fee should be allowed to participate in the review process of regulations promulgated by the Maryland Health Care Commission. The Registered Nurse and Advanced Nurse Practitioner community should participate in amending this chapter.

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;

(d) any mailing by the adopting authority; and
(e) any public hearing held.

The Maryland Health Care Commission is responsible for notice if they change regulations, The Board of Nursing will publish notice in the Maryland Register and on the board's web page for its own changes.

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

None

(5) Describe any inter unit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

These regulations do not lend themselves to scientific data.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

Hospitals, nursing homes, Health Care Practitioners, and Health insurers are charged a user fee.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [X] No

Has the agency promulgated all regulations required by recent legislation? [ ] Yes [X] No

Provide explanations of the above responses, as needed:

The Health Care Access and Cost Commission (HCACC) has been merged into the Maryland Health Care Commission. The name of the Chapter and all references to HCACC should be changed to the Maryland Health Care Commission. Statutory changes now require that all Registered Nurses and Advanced Practice nurses must pay the user fee. The regulations should be amended to comply with these changes.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

	no action
X	amendment
	repeal
	repeal and adopt new regulations
	reorganization

Summary:

The chapter should be amended to conform with statutory changes.

Person performing review:	Shirley A. Devaris, RN, JD
Title:	Policy Analysis and Legislation

Regulatory Review and Evaluation Act
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Chapter Codification: COMAR 10.27.18

Chapter Name: Monetary Penalties

Authority: Health Occupations Article §8-316, Annotated Code of Maryland

Date Originally Adopted or Last Amended: Adopted April 10, 1995

Purpose: To establish rules for imposing monetary penalties on Licensees.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [X] Yes [ ] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Board is going to form a committee to review this Chapter and propose changes. Members of the nursing community will be included in the committee.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notice of a public meeting to consider a proposal will be published in the Maryland Register and on the Board's web-page.

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

There are no past comments as these regulations have never been amended.

(5) Describe any inter unit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

There is no literature on the effectiveness of fines or penalties for violations of Nurse Practice Acts.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

The deterrent effect of fines has not been well studied in the United States. The Model Nurse Practice Act suggests a number of penalties, including fines, that are already used by most states. The only theory supported in any of the literature is that the higher the fine, the more effective it is. There are no studies that compare state Boards of Nursing fines. Some Boards are using remedial programs or ordering violators to take classes related to the violation but still have civil and monetary penalties included in their practice acts.

(8) Provide a summary of any other relevant information gathered.

Any fines or penalties must comply with the state's Administrative Procedure Act.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [X] No

Has the agency promulgated all regulations required by recent legislation? [X] Yes [ ] No

Provide explanations of the above responses, as needed:

NA

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

X amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

The Board is not using the elaborate structure of fines set forth in this chapter and needs to explore either making use of them or using alternative means for discipline. Last year only two licensees were assessed fines. The list of violations in the existing regulations has to be made current and the certificate holders need to be included. The Board is already making frequent use of alternative forms of discipline such as ordering violators to take courses, limiting their areas of practice, referring them to the Board's remedial practice program, or placing them on probation or any combination of these remedies. It is rare for an individual to violate the Nurse Practice Act again after being disciplined.

Person performing review: Shirley A. Devaris, RN,JD

Title: Policy Analysis and Legislation

Regulatory Review and Evaluation Act
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Chapter Codification: COMAR 10.27.20

Chapter Name: Management of Infusion Therapy by the Registered Nurse and Licensed Practical Nurse

Authority: Health Occupations Article, § 8-205, Annotated Code of Maryland

Date Originally Adopted or Last Amended: Amended, October 27, 2003

Purpose: To establish rules for the administration of fluids, nutrients and medications via an intravenous device.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [X] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [X] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [X] No

(4) Are the regulations effective in accomplishing their intended purpose? [X] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

A Board appointed committee of representatives from the nursing community reviewed the regulations and proposed the amendments of 2003.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and

(e) any public hearing held.

Notice of the Board's public meetings were published in the Maryland Register.

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

None

(5) Describe any inter unit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

No comprehensive studies on the assessment of LPN administration of IV therapy were found. A few states have done their own studies as a preliminary to amending their IV therapy regulations. Those studies indicate that there is a lower incidence of errors from LPN's than RN's in administering IV therapy. In general, Board approved LPN IV programs have been successful.

\(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

State Boards of Nursing have addressed the issue of LPNS giving IV therapy in a number of ways. Some Boards prohibit LPNS from giving any IV therapy; some permit administration of medication by IV push under the direct supervision of an RN; some prohibit administration of medications by IV push; some require an LPN to complete a Board approved IV therapy course; and some states allow an LPN to administer IV medications with in-service education and on-site clinical training. In all states, the RN has the ultimate responsibility for the administration of IV therapy and the LPN working under the direction of the RN.

(8) Provide a summary of any other relevant information gathered.

The role of the LPN in IV therapy has historically expanded over time. LPNS were originally prohibited from administering IV therapy. Nationally, LPN education programs prepare LPNS for a variety of clinical needs. Because of the nursing shortage their role has expanded and many LPNS today have a role in IV therapy, depending upon state regulation, that may allow them to administer IV medication; administer medication by IV push; start an IV; and administer blood and blood products. In some areas LPNS in a physician's office can administer IV push medications and/or anesthetic agents under the direct supervision of the physician or dentist.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [X] No

Has the agency promulgated all regulations required by recent legislation? [X] Yes [ ] No

Provide explanations of the above responses, as needed:

NA

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

X no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

Three regulations were amended extensively in 2003 to expand the role of LPN's in IV therapy. No other amendments are needed.

Person performing review: Shirley A. Devaris, RN, JD

Title: Policy Analysis and Legislation

Regulatory Review and Evaluation Act
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Chapter Codification: 10.28.02

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.02.05 amended effective March 26, 2007.

Purpose: This chapter governs the practice of optometry and sets forth continuing education requirements for optometrists licensed to practice in the state of Maryland.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

none

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and

(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

Following a national trend, the Board is recommending that the continuing education regulation be amended to add and define the national clearinghouse for optometric CE courses accepted by the Board and include provisions for pro bono work and professional leadership participation as acceptable CE.

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

n/a

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

(x) amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

1. Under COMAR 10.28.02, Continuing Education, the Board voted to add and define COPE, the national clearinghouse for optometric CE that the Board currently accepts; changed the continuing education audit procedure to commence at the time of renewal as opposed to after each renewal; and deleted language which states that the Board shall take formal disciplinary action against a licensee who submits a false statement of continuing education.

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
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Chapter Codification: 10.28.05

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.05.03B was amended effective 3/4/02

Purpose: This chapter governs the practice of optometry and provides for inactive status and reinstatement of expired licenses.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

n/a

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

(X) no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

N/A

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
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2003 – 2011

Chapter Codification: 10.28.06

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.06.03, .04, and .05 were amended and/or repealed effective November 7, 1994

Purpose: This chapter governs the practice of optometry and establishes criteria the Board considers necessary to perform a minimum optometric examination.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and

(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

n/a

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

(X) no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

N/A

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: 10.28.07

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.07.02 was amended effective 12/11/03

Purpose: This chapter governs the practice of optometry and establishes a fee schedule.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [x] Yes [ ] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

NA

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

(x) amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

The Board voted to delete the fees for replacement wall certificates and limited license fee because the Board no longer uses a calligrapher to print the certificates and no longer issues a limited license.

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: 10.28.08

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.08.01A was amended effective 3/4/02

Purpose: This chapter governs the practice of optometry and application for partial waiver of examination.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [x] Yes [ ] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? ☐ Yes ☒ No

Has the agency promulgated all regulations required by recent legislation? ☒ Yes ☐ No

Provide explanations of the above responses, as needed:

NA

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

(x) amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

The Board voted to change one word in the language regarding the passing of an examination "**given"** by the board of optometry in another state to "**approved"** by the board in another state.

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: 10.28.09

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.09.04A was amended effective 3/4/02

Purpose: This chapter governs the practice of optometry and governs advertising by optometrists in Maryland.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

n/a

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

(X) no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

N/A

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: 10.28.10

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.10 was effective 9/7/87

Purpose: This chapter governs the practice of optometry and governs optometrist accountability relevant to practitioner identification.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

n/a

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

(X) no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

N/A

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: 10.28.11

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.11.03A was amended effective 3/4/02

Purpose: This chapter governs the practice of optometry and governs the use of diagnostic pharmaceutical agents by optometrists.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

n/a

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

(X) no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

N/A

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: 10.28.12

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.12.02 was amended effective 3/4/02

Purpose: This chapter governs the practice of optometry and the use of therapeutic pharmaceutical agents.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [x] Yes [ ] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and

(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

NA

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

(x) amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

The Board voted to repeat the language in § 11-404.1 of the Annotated Code of Maryland that lists the requirements for therapeutic certification that include the successful completion of an 8-hour steroids course approved by the Board for applicants for licensure who graduated from accredited schools of optometry prior to July 1, 2005 or applicants who graduated on or after July 1, 2005 who do not apply within 3 years of graduation.

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: 10.28.13

Chapter Name: Board of Examiners in Optometry

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316;

Date Originally Adopted or Last Amended: Regulation 10.28.13 was effective 4/20/98

Purpose: This chapter governs the practice of optometry and establishes the standards by which the Board may impose an administrative monetary penalty not exceeding $5,000.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

The Maryland Optometric Association, representatives for the optician community, retail optometric establishments, ophthalmology community, licensees, and the public were notified and invited to a meeting to discuss and review the regulation.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

None

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Notices of regulation review were published in the MD Register, annual newsletter and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

None

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [x] Yes [ ] No

Provide explanations of the above responses, as needed:

n/a

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

(X) no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

N/A

Person performing review: Patricia G. Bennett

Title: Administrator

Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011

Chapter Codification: 10.29.02; amd 10.29.04—10.29.12

Chapter Name: Examination; Fee Schedule; Continuing Education; Preneed Contract; Surviving Spouse; Courtesy Care; Requirements for Apprenticeship; Monetary Penalties; Complain Procedures; Advertising under Subtitle 29 Board of Morticians and Funeral Directors

Authority: Health Occupations Article, §§1-211, 1A-205, 1A-301, 1A-306, 1A-307, and 1A-316; Agriculture Article, §§2-301(g) and 2-304

Date Originally Adopted or Last Amended: Last Amended: February 25, 2008

Purpose: These chapters govern the practice of mortuary science and preneed trusting for the Board of Morticians and Funeral Directors.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.3002.20E)

(1) Do the regulations continue to be necessary for the public interest? [x] Yes [ ] No

(2) Do the regulations continue to be supported by statutory authority and judicial opinion? [x] Yes [ ] No

(3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? [ ] Yes [x] No

(4) Are the regulations effective in accomplishing their intended purpose? [x] Yes [ ] No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Maryland State Funeral Directors and Morticians Association, Funeral Directors and Morticians of Maryland, Inc. (attend Board meetings when regulation changes are discussed). Licensees and other health boards (regulation changes are published in newsletters and Maryland Register. Public (regulations changes published in MD register)

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

none

(3) Describe the process used to solicit public comment, including:
(a) any notice published in the Maryland Register;
(b) any notice published in newspapers of general circulation;
(c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
(d) any mailing by the adopting authority; and
(e) any public hearing held.

Regulation changes are published in the MD Register , Board newsletters, and the Board's website

(4) Provide summaries of:
(a) all comments received from stakeholders, affected units, or the public; and
(b) the adopting authority's responses to those comments.

The Board did not receive comments

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

None

(6) Provide a summary of any relevant scientific data gathered.

None

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

North Carolina and Florida have Family Security Trust regulations which were reviewed when the Board was working on preneed and family trust regulations.

(8) Provide a summary of any other relevant information gathered.

None

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? [ ] Yes [x] No

Has the agency promulgated all regulations required by recent legislation? [ ] Yes [X] No

Provide explanations of the above responses, as needed:

The Board is in the process of writing regulations for The Family Security Trust Fund which was enacted July, 2008.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

(x) amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

Under COMAR 10.29.06 establishes guidelines with respect to pre-paying funerals. Amend chapter to state that

1) The funeral director must have a copy of the death certificate or a notarized statement from the buyer in order to withdraw money from a bank. A seller who funds preneed life insurance policies or annuities must give the buyer a Certificate of Insurance.

2) All preneed money must be deposited in an FDIC insured account and the buyer must receive a copy of the deposit slip within 30 days upon transferring preneed funds.

Person performing review: Laurie Sheffield-James

Title: Executive Director