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**TO:** Members of the Maryland State Board of Education  
**FROM:** Lillian M. Lowery, Ed.D. *lm Lowery*  
**DATE:** September 23, 2014  
**SUBJECT:** COMAR 13A.03.05 (AMEND)  
Administration of Home and Hospital Teaching for Students  
**PERMISSION TO PUBLISH**

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**PURPOSE:**

To obtain permission to publish COMAR 13A.03.05, Administration of Home and Hospital Teaching for Students. (ATTACHMENT I).

**BACKGROUND/HISTORICAL PERSPECTIVE:**

As part of the regulatory review process during SY 2013-2014, the Maryland State Department of Education worked with supervisors and coordinators of the home and hospital programs in local school systems to review and update the regulations on the administration of home and hospital teaching. Input and insights gained from nursing associations, physicians, and parents helped inform the changes. The regulations require local school systems to provide a specified base amount of weekly instruction to students who are unable to attend their school of enrollment due to a verifiable physical or emotional condition.

Currently, COMAR 13A.03.05.04A allows only a licensed physician to verify a medical need for home and hospital instruction based on a student's physical condition. There has been discussion for years about expanding the verification requirement to allow nurse practitioners to also verify this need. Now, more parents than ever before are inquiring if they can provide the required verification statement from a nurse practitioner, in all likelihood reflecting societal trends in the health care arena which support consulting with nurse practitioners in lieu of licensed physicians. For some, this change could result in a cost savings if a lower fee or no fee is incurred for seeing a nurse practitioner.

In addition, COMAR 13A.03.05.04C requires reverification of the student's need for home and hospital instruction every 60 days for all cases, including student's with chronic health conditions who are intermittently absent from school. Students with such conditions who receive home and hospital services fall under the concurrent delivery of services provision, COMAR 13A.03.05.01C. This status allows them to receive home and hospital instruction during episodes of the condition that result in their absence from school while allowing them to



maintain enrollment and attend school on days when they are able. Students in this category almost always require intermittent home and hospital services well beyond 60 days. Changing the reverification requirement to an annual reverification for students who receive concurrent delivery of services would help alleviate the expense, time and effort that parents/guardians have to expend dealing with this requirement when they are already dealing with the child's chronic condition.

Also on the issue of concurrent delivery of services, currently COMAR 13A.03.05.01C allows concurrent services only for students with a physical condition that requires them to miss school intermittently. This differs from regular home and hospital instruction which pertains to students who are absent for a distinct period of time and then return to school. Because home and hospital instruction is provided for both physical and emotional conditions, the regulatory provision for concurrent delivery of services should also include emotional conditions so that the home and hospital regulations are internally consistent.

**EXECUTIVE SUMMARY:**

The proposed amendments: (1) add nurse practitioners as health professionals who may verify the need for home and hospital instruction services; (2) require an annual reverification for students who receive concurrent delivery of instructional services instead of reverification every 60 calendar days; and (3) add emotional conditions, such as depression and bipolar disorder, to the provision for concurrent delivery of instructional services.

**ACTION:**

Request permission to publish COMAR 13A.03.05, Administration of Home and Hospital Teaching for Students.

Maryland Register Issue Date	November 14, 2014
30 Day Open Comment Period Ends	November 14 – December 15, 2014
Adoption	January 27, 2015
Tentative Effective Date	March 2, 2015

RB:gml

Attachments

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 03 GENERAL INSTRUCTIONAL PROGRAMS

### Chapter 05 Administration of Home and Hospital Teaching for Students

Authority: Education Article, 2-205, 6-704, 7-101, 7-301, and 8-403, Annotated Code of Maryland

#### .01 Scope.

A. These regulations, which establish a minimum requirement, apply to the provision of instructional services to public school students who are unable to participate in their school of enrollment due to a physical or emotional condition.

B. In implementing these regulations, all school systems shall comply with the Individuals with Disabilities Education Act, Americans with Disabilities Act, and §504 of the Rehabilitation Act of 1973, as appropriate.

C. Concurrent delivery of instructional services and enrollment in a public school shall be provided for a student whose physical *or emotional* condition requires the student to be absent from school on an intermittent basis. These conditions include, but are not limited to, kidney failure, cancer, asthma, cystic fibrosis, [and] sickle cell anemia[,], *depression, and bipolar disorder.*

D. Instructional services shall be provided to an identified student with disabilities in accordance with federal and State special education law and regulations, including COMAR 13A.05.01. The student and parents shall be involved in the process and are entitled to all rights and due process procedures included within these laws and regulations.

E. Excluded from these regulations are the home-based programs operated through the Office for Children[, Youth, and Families] and the Maryland Infants and Toddlers Program for the birth through 2-year-old disabled population and Home Instruction [as defined in] *under* COMAR 13A.10.01.[01.]

#### .02 Definitions.

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

B. Terms Defined.

(1) "Local school system" means the public school system in which the student is enrolled, or for an identified student with disabilities, the public school system that has responsibility for the education of the student.

(2) "Therapeutic treatment center" means any day or residential facility, licensed by a unit of State government, providing treatment for medical, physical, or emotional conditions including drug or alcohol dependency, or both.

#### .03 Responsibility of Local School Systems.

A. Nature.

(1) Each local school system shall make instructional services available to students who are unable to participate in their school of enrollment for those reasons set forth in this chapter. In making instructional services available, local school systems shall consult with the parent, guardian, student, psychologist, [and] physician, *psychiatrist and nurse practitioner*, as appropriate.

(2) Instructional services, as outlined in this chapter, shall be available to all students during convalescence or treatment time in a medical institution, or therapeutic treatment center, and at the student's place of residence, or all of these.

B. Service Delivery.

(1) Each local school system shall:

(a) Determine the manner in which instructional services shall be delivered to a student;

(b) Develop safety procedures, including training, to ensure an appropriately supervised safe environment for teachers and students; and

(c) Develop a review process to resolve any disagreement that arises in the implementation of this chapter.

(2) [Beginning July 1, 2001, instructional] *Instructional* services as outlined in this chapter shall be delivered by an individual possessing a minimum of a bachelor's degree from an institution of higher education as defined in COMAR 13A.12.01.02B. This requirement does not apply to an individual who has demonstrated satisfactory performance as a home and hospital teacher in a local school system before July 1, 2001.

C. Delivery Options. The local school system may:

(1) Provide directly instructional services to a student;

(2) Contract with private providers to deliver instructional services;

(3) Contract with other local school systems to provide instructional services; or

(4) Combine any of the delivery options described in §C(1)----(3) of this regulation.

D. Attendance and Time of Instruction.

(1) A local school system shall either maintain a student on the regular school roll and count the student as present, except when a student is not available for the scheduled instructional service, in which event the student is counted absent, or establish a school for record-keeping purposes called a home and hospital school with a local school

number. In the latter event, a student identified for home and hospital teaching shall be withdrawn from the roll of the school the student attends and transferred to the roll of the home and hospital school. The student shall be counted as present, except when the student is not available for the scheduled instructional service. In this instance, the student is counted absent.

(2) The length of instruction for students in a full-day program is a minimum of 6 hours a week.

(3) The length of instruction for students in half-day programs is a minimum of 3 hours a week.

(4) ***A local school system shall determine the need for service and begin instruction*** [The instructional service shall begin] as soon as possible, but not later than 10 school calendar days following the:

(a) Notification to the local school system of the inability of the student to attend the school of enrollment; and

(b) Receipt of the verification of the need for services as provided in Regulation .04 of this chapter.

#### **.04 Verification Procedures.**

A. [ Initial service need is determined by:]

[(1)] ***The local school system determines initial service need through*** [Verification] ***verification*** of the physical condition, including drug and alcohol dependency, by a licensed physician ***or certified nurse practitioner***, or verification of emotional condition by a certified school ***psychologist***, [or] licensed psychologist, or licensed psychiatrist[; and] .

[(2)] ***B. The student's parent or guardian shall submit*** [A] ***a statement*** [by the physician or psychologist] ***from a practitioner designated in §A of this regulation*** verifying that the current physical or emotional condition prevents the student from participating in the student's school of enrollment.

[B. Service need is subject to review:]

[(1)] 60 calendar days after the initial determination of eligibility; or]

[(2)] Sooner at the request of either the parent, guardian, or local school system.]

C. Continuation of [this service beyond 60 calendar days requires reverification of] service need [, in accordance with §A of this regulation].

(1) ***Continuation of service need is subject to review and determination by the local school system and requires reverification of the physical or emotional condition in the manner set forth in §§A and B of this regulation.***

(2) ***Except as provided in §(C)(3) of this regulation, service need shall be reverified as follows:***

(a) ***60 calendar days after the initial determination of eligibility and every 60 days thereafter; or***

(b) ***Sooner at the request of either the parent, guardian, or local school system.***

(3) ***Service need shall be reverified annually for students who receive concurrent delivery of instructional services pursuant to Regulation .01C of this chapter.***

[.05 Implementation.

By September 1, 1994, each local school system shall certify to the State Superintendent of Schools that written procedures are in place to implement this chapter.]

LILLIAN M. LOWERY, Ed.D.  
State Superintendent of Schools

# IMPACT STATEMENTS

*Part A*  
(check one option)

## Estimate of Economic Impact

The proposed action has no economic impact.

or

✓ The proposed action has an economic impact. Complete the following form in its entirety.

**I. Summary of Economic Impact.**

Parents will save any money spent on doctors' fees as they now will shift from having to get the referral for home and hospital services renewed every sixty days for those utilizing the concurrent enrollment.

Parents will save money when nurse practitioners are allowed to sign the referral as opposed to doctors.

We do not expect that there will be an influx of students in need of these sporadic tutoring services. This will be a small segment of the student population made even smaller because many students initially denied services due to an emotional condition have received referrals from their physicians for physical conditions that manifest themselves due to emotional conditions.

**II. Types of Economic Impacts.**

Revenue (R+/R-)  
Expenditure (E+/E-) Magnitude

A. On issuing agency:

none

B. On other State agencies:

none

C. On local governments:

none

Benefit (+)  
Cost (-) Magnitude

D. On regulated industries or trade groups:

none

E. On other industries or trade groups:

none

F. Direct and indirect effects on public:

See ("I") above

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

Presently, COMAR requires that concurrent enrollment services be provided for students with physical conditions such as sickle cell anemia, severe asthma, and cystic fibrosis. It is silent as far as an emotional condition that is chronic and acute such as depression. This short-term intermittent need for tutoring due to episodes that leaves a student unavailable for learning is not presently recognized in COMAR as physical conditions requiring intermittent instruction are. It is believed that making this regulation internally congruent will not create a demand for this service. It will simply recognize that such a request can hold as much validity as a request due to a physical condition.

**Part B**  
(check one option)

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

or

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

**Impact on Individuals with Disabilities**  
(Check one option)

The proposed action has no impact on individuals with disabilities.

or

The proposed action has an impact on individuals with disabilities as follows:

**Part C**  
**(For legislative use only; not for publication.)**

- A. Fiscal Year in which regulations will become effective: **FY 2015**
- B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?
- Yes                      **N/A**                       No
- C. If Ayes,@ state whether general, special (exact name), or federal funds will be used:
- N/A**
- D. If Ano,@ identify the source(s) of funds necessary for implementation of these regulations:
- N/A**
- E. If these regulations have no economic impact under Part A, indicate reason briefly:

If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.



**Comparison to Federal Standards**  
(Check one option)

There is no corresponding federal standard to this proposed regulation.

OR

There is a corresponding federal standard to this proposed regulation, but the proposed regulation is not more restrictive or stringent.

OR

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

- (1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:
  
- (2) Benefit to the public health, safety or welfare, or the environment:
  
- (3) Analysis of additional burden or cost on the regulated person:
  
- (4) Justification for the need for more restrictive standards: