



Nancy S. Grasmick
State Superintendent of Schools

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TO: Members of the State Board of Education

FROM: Nancy S. Grasmick *Nancy*

DATE: January 27-28, 2009

SUBJECT: COMAR 13A.12.03.09 (REPEAL)
Speech Pathologist
COMAR 13A.12.03.10 (AMEND)
Therapists (Occupational or Physical Therapists or Both)
APPROVAL

PURPOSE

The purpose of this item is to request repeal of existing regulation, COMAR 13A.12.03.09, Speech Pathologist; and to request your approval of proposed amendment to COMAR 13A.12.03.10, Therapists (Occupational or Physical or Both). The proposed changes would clarify and streamline certification for certain professionals required to hold licensure in accordance with the Maryland Health Occupations Article and who practice in schools. The updated proposal would also preserve the certificated status of affected professionals.

HISTORICAL BACKGROUND

House Bill 326, Maryland Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists Act – Revision, enacted in 2007 by the General Assembly, requires that all speech-language pathologists hired in local school systems after October 1, 2007 obtain a license from the Maryland State Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists. Current regulatory language allows four options for certification as a speech pathologist; the fourth option recognizes personnel holding a current and valid license issued by the State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists as professionally certificated.

In 1997, staff from the Division of Certification and Accreditation requested repeal of the certification regulation governing occupational and physical therapists (COMAR 13A.12.03.10). This request was made because the Health Occupations Article requires all occupational and physical therapists to hold a license issued by their respective Boards in order to practice. While the regulation was not repealed, it was amended to recognize personnel holding a current and valid license issued by the State Board of Occupational Therapy Practice or by the State Board of Physical Therapy Examiners as professionally certificated.

Specific certification requirements are no longer required for speech pathologists, occupational therapists, and physical therapists working in Maryland schools. Respective Boards of

Examiners are responsible for the issuance of licenses to these professionals. Potential repeal of current requirements for speech pathologists, occupational therapists, and physical therapists has been a topic of discussion at meetings of the Professional Standards and Teacher Education Board (PSTEB) over the course of the past year; the PSTEB voted to publish proposed changes that would have accomplished this at its meeting on April 3, 2008. A key factor contributing to this action was the need to proceed with the initial phase of regulatory promulgation in order to obtain input from across the spectrum of stakeholders for whom these regulations are relevant.

Subsequent to publication of the proposed regulatory changes (*Maryland Register* of June 20, 2008), a gratifyingly significant number of written comments were submitted to PSTEB members and others. Correspondents recommended with unanimity that the proposed changes be rejected and suggested the exploration of other options to address the changes required for alignment of Code of Maryland Regulation (COMAR) governing the certification of speech language pathologists with House Bill 326. The scope and unanimity of written comment prompted the PSTEB to withdraw the proposed regulatory changes affecting Speech Pathologists, Occupational Therapists, and Physical Therapists, and members voted unanimously to do so at a special meeting on July 8, 2008.

To achieve statutory and regulatory alignment, the PSTEB acted at its October 2008 meeting to proceed with publication of proposed repeal of COMAR 13A.12.03.09; issuance of initial speech pathologist certification is in conflict with the licensure authority conveyed to the Maryland State Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists by House Bill 326. Based on stakeholder input and ongoing PSTEB discussion, however, it is clearly important to recognize the certificated status of these professionals.

At the August 7, 2008 PSTEB meeting, a question arose as to the potential inclusion of Audiologists within proposed changes to COMAR 13A.12.03.10. As of June, 1988, Audiologists were required to hold a license. Since audiologists are regulated by the same board as Speech – Language Pathologists, it is logical to afford them the same protection as the other professionals who are required to hold a license. The PSTEB also inquired about Hearing Aid Dispensers and their inclusion in the proposed regulatory changes. Department staff surveyed local school systems; fourteen (14) responded that they did not hire Hearing Aid Dispensers. Additionally, the minimum degree requirement for a Hearing Aid Dispenser is an associate degree, whereas the minimum degree requirement for the other professionals in the regulation is a master's degree. For these reasons, this group will not be included in the proposed changes.

Thus, the PSTEB also acted at its October 2008 meeting to proceed with publication of proposed amendment to COMAR 13A.12.03.10 that would add speech-language pathologist and audiologist to the existing category of occupational and physical therapists, who “shall be considered professionally certificated” under this regulation (modifying language to reflect multiple licensing authorities). It is important to note that, as with all historic endorsements, individuals holding current certification as a speech pathologist or audiologist will be entitled to continuing certification provided that renewal requirements are met. This will provide assurance to those individuals employed prior to October 1, 2007 and who may not qualify for licensure that their status will remain secure.

The proposed repeal of COMAR 13A.12.03.09 and amendment to COMAR 13A.12.03.10 was also shared with local school system Assistant Superintendents of Instruction and Superintendents at their respective meetings in September, 2008. The Professional Standards and Teacher Education Board voted to publish the proposed changes at its meeting on October 2, 2008. Subsequently, you reviewed the proposal at your meeting on October 28, 2008 and determined that a Joint Conference Committee was not necessary prior to publication.

Copies of the proposed COMAR amendment and repeal as published in the *Maryland Register* on December 19, 2008 are attached. The period for public comment concluded on January 19, 2009; no comments have been received. The proposed amendment and repeal do not have any economic impact, nor do they have any impact on individuals with disabilities. There is no corresponding federal standard for this proposed action.

SUMMARY

Legislation enacted in the 2007 General Assembly requires speech-language pathologists hired in local school systems after October 1, 2007 to hold a license issued by the State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists. A similar change occurred in 1997, which required Occupational Therapists and Physical Therapists to hold a license issued by their respective Board of Examiners.

Extensive discussion and the publication of an initial proposal to repeal certification for speech-language pathologists, occupational therapists, and physical therapists have provided rich and valuable input from stakeholders. Based on clear and consistently expressed concerns, the Professional Standards and Teacher Education Board acted to withdraw proposed regulatory changes that were published in the *Maryland Register* of June 20, 2008 at a special meeting on July 8, 2008.

Repealing COMAR 13A.12.03.09, Speech Pathologists, and amending COMAR 13A.12.03.10, Therapists (Occupational or Physical or Both) to include speech-language pathologists and audiologists would bring regulation into alignment with current statute while recognizing and preserving the certificated status of these professionals. Copies of the proposed COMAR amendment and repeal as published in the *Maryland Register* on December 19, 2008 are attached.

ACTION:

I am requesting repeal of COMAR 13A.12.03.09, Speech Pathologists, and approval of COMAR 13A.12.03.10, Therapists (Occupational or Physical or Both).

NSG:jes

Attachment

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Smeallie, Assistant State Superintendent, Certification and Accreditation, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0385, or email to jsmeallie@msde.state.md.us, or fax to 410-333-8963. Comments will be accepted through January 20, 2009. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Professional Standards and Teacher Education Board during a public meeting to be held on February 5, 2009, at 200 West Baltimore Street, Baltimore, MD 21201.

18 Certification in Specialty Area (Prekindergarten — Grade 12).

A. To receive certification in art, dance, environmental education, health, music, and physical education at the pre-kindergarten — grade 12 level, the applicant shall:

(1) Complete the following content course work:

(a) (text unchanged)

(b) Complete [36] 30 semester hours or more of content course work taken at an IHE in the certification area;

(2) — (3) (text unchanged)

B. (text unchanged)

NANCY S. GRASMICK
State Superintendent of Schools

Subtitle 12 CERTIFICATION**13A.12.03 Specialists**

Authority: Education Article, §§2-205, 2-303(g), 6-101 — 6-104, and 6-701 — 6-706; Health Occupations Article, §§2-301 and 19-301; Annotated Code of Maryland

Notice of Proposed Action

[08-372-P]

The Professional Standards and Teacher Education Board proposes to repeal Regulation .09, amend Regulation .10, and adopt new Regulation .12 under COMAR 13A.12.03 Specialists. This action was considered at the Professional Standards and Teacher Education Board meeting on October 2, 2008.

Statement of Purpose

The purpose of this action is to:

(1) Clarify and streamline certification for certain professionals who practice in schools and are required to hold licensure in accordance with Health Occupations Article, Annotated Code of Maryland;

(2) Preserve the certificated status of affected professionals; and

(3) Provide educators the opportunity to pursue specialized preparation that will enable them to provide more

effective instruction for gifted and talented students, who present a unique set of educational needs.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Smeallie, Assistant State Superintendent, Certification and Accreditation, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0385, or email to jsmeallie@msde.state.md.us, or fax to 410-333-8963. Comments will be accepted through January 20, 2009. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Professional Standards and Teacher Education Board during a public meeting to be held on February 5, 2009, at 200 West Baltimore Street, Baltimore, MD 21201.

10 Therapists (Occupational Therapists, [or] Physical Therapists, [or Both] Speech-Language Pathologists, or Audiologists).

An occupational therapist, [or] physical therapist, speech-language pathologist, or audiologist holding a current and valid license issued by the State Board of Occupational Therapy Practice, [or by] the State Board of Physical Therapy Examiners, or the State Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists in accordance with the relevant provisions of Health Occupations Article, Annotated Code of Maryland, shall be considered professionally certificated.

12 Gifted and Talented Education Specialist.

To be certified as a Gifted and Talented Education Specialist, an applicant shall:

A. Earn a master's degree from one of the following:

(1) A Department approved master's program that leads to certification in Gifted and Talented Education;

(2) An out-of-State approved master's program that leads to Gifted and Talented Certification; or

(3) An IHE and:

(a) Complete 15 semester hours of graduate course work in Gifted and Talented Education from an IHE, which includes a balance of content in the following competencies:

(i) Understanding the foundations of gifted education, including historical perspectives, key philosophies and theories, social, cultural, and economic influences, key issues, and trends;

(ii) Understanding the unique cognitive and affective characteristics of gifted and talented students, including the learning differences of gifted and talented students with disabilities and those from diverse backgrounds;

(iii) Understanding processes and procedures for the identification of gifted and talented students, including