



Mohammed Choudhury
State Superintendent of Schools

TO: Members of the State Board of Education
FROM: Mohammed Choudhury, State Superintendent of Schools
DATE: March 28, 2023
SUBJECT: COMAR 13A.03.05
Administration of Home and Hospital Teaching for Students
ADOPTION

Purpose

The purpose of this item is to request adoption of amendments to Code of Maryland Regulations (COMAR) 13A.03.05 *Administration of Home and Hospital Teaching for Students*.

Regulation Promulgation Process

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

Background/Historical Perspective

The Nurse Practitioner Full Practice Authority Act of 2015 (Ch. 468, Laws of Maryland 2015) (the Act) removed the requirement that Nurse Practitioners (NP) be aligned with a physician and granted them the authority to practice independently. The Act includes all Nurse Practitioner (NP) specialties and allows Psychiatric Mental Health Nurse Practitioners (PMHNP) to establish a mental health diagnosis. Under this Act, appropriately certified psychiatric NPs are eligible to diagnose a student’s mental health (emotional) state. Current regulation does not permit NPs to validate emotional conditions requiring home and hospital services, only to validate physical conditions. This diagnosis is at the core of the validation required for an attestation of an emotional condition that may require home and hospital teaching.

Repeated requests from local education agencies (LEAs) to allow PMHNPs to validate emotional conditions for home and hospital services have led to the realization that without their inclusion in COMAR, many students must wait months to see a psychiatrist, licensed psychologist, or licensed psychiatrist. In remote and low socio-economic areas of the State, there are very few of these specialists and wait times may delay the delivery of home and hospital services.

COMAR 13A.03.05 Administration of Home and Hospital Teaching for Students was presented to the State Board on May 24, 2022, requesting permission to publish, and was published in the Maryland Register for 30 days from December 16, 2022, through January 17, 2023, and for another 30 days from February 10, 2023, through March 10, 2023. Three comments were received, all in support of the amendments to the regulation.

Executive Summary

The proposed amendments update the requirements for COMAR 13A.03.05 Administration of Home and Hospital Teaching for Students to reflect the change in the Maryland Nurse Practitioner Law to amend certain language in COMAR 13A.03.05 and expand language that allows a PMHNP to validate emotional conditions requiring home and hospital services.

Action

Request that the State Board adopt the proposed amendments to COMAR 13A.03.05 Administration of Home and Hospital Teaching for Students.

Attachments

COMAR 13A.03.05 *Administration of Home and Hospital Teaching for Students*

Letter from Dr. Dr. Monifa B. McKnight, Superintendent of Montgomery County Public Schools

Letter from William J. Barnes, Chief Academic Officer, Howard County Public Schools

Email from CB Benway, CRNP-PMH, APRN-PMH, Advanced Practice Psychiatric Solutions, LLC

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

.02 Definitions.

A. (text unchanged)

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.

(3) "Nurse practitioner" means a nationally board certified, advance practice nurse with a master's or doctorate degree who by reason of certification under COMAR 10.27.07, may practice in Maryland as a nurse practitioner under the terms of that chapter; or if out-of-State, as a nurse practitioner in the state in which services are provided.

(4) "Psychiatric mental health nurse practitioner" means an advanced practice registered nurse, possessing a master's or doctorate degree, and who by reason of national certification under COMAR 10.27.12, is recognized as being trained and certified to diagnose and treat individuals who have mental health needs and substance abuse issues.

[(2)] (4) (text unchanged)

.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, physician, psychiatrist, and nurse practitioner, as appropriate.] *any of the following as deemed necessary:*

(a) Parent;

(b) Guardian;

(c) Student;

(d) Psychologist;

(e) Physician;

(f) Psychiatrist; and

(g) Nurse practitioner.

(2) (text unchanged)

B.—D. (text unchanged)

.04 Verification Procedures.

A. The local school system shall determine initial service need through 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, licensed psychologist, [or] licensed psychiatrist, *or licensed psychiatric mental health nurse practitioner.*

B.—C. (text unchanged)

MOHAMMED CHOUDHURY
State Superintendent of Schools

Maryland's Largest School District

MONTGOMERY COUNTY PUBLIC SCHOOLS

Expanding Opportunity and Unleashing Potential

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

January 17, 2023

Mr. Jonathan Turner, Lead Specialist
Student Support and Enrichment
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Dear Mr. Turner,

This letter is in response to your request to provide comments on the proposed amendments to COMAR 13A.03.05 Administration of Home and Hospital Teaching for Students (Enclosure 1). Montgomery County Public Schools (MCPS) staff reviewed the enclosed proposed amendments (Enclosure 2) and believe the changes will support students and families seeking care from Psychiatric Mental Health Nurse Practitioners (PMHNP), should a student's emotional condition require home and hospital teaching (HHT) services.

MCPS supports the amendment to the regulation allowing PMHNP to validate emotional conditions for the purpose of securing home and HHT services for students. The increase in the volume of adolescents seeking mental health services in the past several years has led directly to long wait times for students to see licensed psychologists and psychiatrists, which has, in turn, led parents/guardians to seek care from other practitioners. MCPS appreciates and supports the proposed amendments drafted by the Maryland State Board of Education.

If you have questions or need additional information, please contact Mr. Brian H. Beaubien, supervisor of interim instructional services, Department of College and Career Readiness and Districtwide Programs, Office of Curriculum and Instructional Programs, at 240-740-4042.

Sincerely,



Monifa B. McKnight, Ed.D.
Superintendent of Schools

MBM:PKM:PP:BHB:sd

Enclosures

Copy to:
Dr. Murphy
Dr. Pugh
Mrs. Hazel
Mr. Beaubien



January 13, 2023

Clarence C. Crawford
President
Maryland State Board of Education
200 West Baltimore Street
Baltimore, MD 21201
stateboard.msde@maryland.gov

Jonathan Turner
(or current Lead Specialist)
Student Support and Enrichment
Maryland State Department of Education
200 West Baltimore Street
Baltimore, MD 21201
jonathan.turner@maryland.gov

RE: Comments on COMAR 13A.03.05 *Administration of Home and Hospital Teaching for Students*

Dear Maryland State Board of Education and Maryland State Department of Education representatives:

The Howard County Public School System (HCPSS) would like to take this opportunity to offer support for proposed changes to COMAR published in the Maryland Register on December 16, 2022, specifically under 13A.03.05 *Administration of Home and Hospital Teaching for Students*. For years, this particular COMAR regulation has caused barriers to access for students seeking Home and Hospital education in Howard County and across the state because application approval authority as currently required is not aligned with practice.

Under Education Article § 7-301(d)(3), alternative instruction for students with a mental, emotional, or physical handicap who are unable to attend their regular school of enrollment can be authorized “with the written recommendation of a licensed physician or a State Department of Education certified or licensed psychologist.” Entry into the Home and Hospital program for these students, which provides educational services that enable students to continue their academic work and to remain current with their peers as they prepare for their eventual return to their home schools, is governed by regulations under COMAR 13A.03.05 *Administration of Home and Hospital Teaching for Students*.

The concern raised by HCPSS Home and Hospital staff is the inability of licensed psychiatric mental health nurse practitioner to approve applications for emotional conditions. Specifically, current COMAR states “The local school system shall determine initial service need through 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, licensed psychologist, or licensed psychiatrist.” This restriction has created a barrier for HCPSS families when a licensed psychiatric mental health nurse practitioner is authorized to diagnose and treat students experiencing an emotional crisis, but the licensed psychiatric mental health nurse practitioner cannot sign the Home and Hospital Application per current COMAR language.

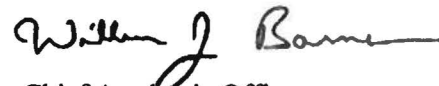
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Comments on COMAR 13A.03.05 Administration of Home and Hospital Teaching for Students
January 13, 2023

The clarification that licensed medical providers, including licensed psychiatric mental health nurse practitioners, are able to provide written Home and Hospital approval for emotional conditions is an important and long overdue change that staff implores the State Board to approve.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "William J. Barnes". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chief Academic Officer



Walter Sallee -MSDE- <walter.sallee@maryland.gov>

22-211-P [opportunity for public comment]

1 message

CB Benway <cb.benway@appsmentalhealth.net>

Wed, Mar 8, 2023 at 8:23 PM

To: "walter.sallee@maryland.gov" <walter.sallee@maryland.gov>

Dear Mr. Sallee;

My name is CB Benway and I am a Psychiatric Mental Health Nurse Practitioner and a Clinical Nurse Specialist in Child and Adolescent Psychiatry. I have a private practice in Hagerstown, MD. I care for many children in the Washington County area, and often run up against the ridiculousness of the COMAR regulations as they currently stand. The current regulations for HHT cause Nurse Practitioners like myself to not be able to care for their patients in the manner that the State of Maryland intended when they gave us independent practice. I have been a psychiatric nurse practitioner for over 20 years and I have practiced in multiple states. This is the first state ever that has allowed medical nurse practitioners to do their job, but not allowed the psychiatric nurse practitioners to do ours.

We become NPs in Psych because we love the field and we are needed in the field. We care for the children and adolescents in the areas where care is scarce, and parents are unable to find Psychiatrists or Psychologists to sign these forms. When I worked at Brook Lane Hospital, there were forms that were co-signed by doctors who knew nothing of the patient. When called upon by the school for any reason, they could not answer any questions. They don't know the child. Most of these children have been seen for years. Most of the practitioners like myself spend 30 minutes to an hour with our patients, not just 10 to 15 min like doctors do. We are educated and yet know when to ask for help.

It is not that we are incapable of knowing when a child has a mental disorder or disability, nor is it that we do not know how to diagnose. We were taught all of that in school. I do not know what caused the oversight that neglected to give us the go ahead to sign these forms. However, the time is now. There are way too many children suffering because we do not have the ability. It is time to allow us to do our jobs. Please.

Sincerely,

CB Benway, CRNP-PMH, APRN-PMH

Advanced Practice Psychiatric Solutions, LLC

CB Benway, CRNP, APRN - Owner

Psychiatric and Mental Health Nurse Practitioner - BC

Child and Adolescent Psychiatric and Mental Health Clinical Nurse Specialist - BC

13327 Wisdom Way

Hagerstown, MD 21742

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