

**[.06] .05 Fees.**

- A. — B. (text unchanged)
- C. Waiver or Reduction. On an applicant’s request, the Executive Director may waive or reduce any fee imposed under this chapter if the Executive Director, after considering the applicant’s ability to pay and other relevant factors, [including but not limited to the purpose specified for the data request,] determines that a waiver or reduction of fees is in the public interest.

**[.07] .06 Individual Records.**

- A. (text unchanged)
- B. Individual Student Records.
  - (1) — (3) (text unchanged)
  - (4) The Center shall direct requests for access to individual student records to the agency supplying the records to the Center for consideration under the Maryland Public Information Act, [State Government, Title 10, Subtitle 6] *General Provisions Article, Title 4*, Annotated Code of Maryland, and any and all applicable State and federal statutes and regulations.
- C. Individual Workforce Records.
  - (1) — (4) (text unchanged)
  - (5) Requests for access to individual workforce records shall be directed to the Maryland Department of Labor, Licensing and Regulation for that agency’s consideration under the Maryland Public Information Act, [State Government Article, Title 10, Subtitle 6] *General Provisions Article, Title 4*, Annotated Code of Maryland, and any and all applicable State and federal statutes and regulations.
- D. — E. (text unchanged)

ROSS GOLDSTEIN  
Executive Director

# Title 31

## MARYLAND INSURANCE ADMINISTRATION

### Subtitle 04 INSURERS

#### 31.04.02 Examination of [Promoters] *Principal Management or Controllers of Insurers*

Authority: *Health-General Article, §§15-102.6, 19-705, 19-708, 19-7A-03, and 19-7A-04; Insurance Article, §§2-109, 2-205(c), [2-206, 3-104] 4-108, 4-113(a)(7)–(9), [and 4-115] 7-304, 7-603, 8-412, 8-417, 14-109(3), and 14-405; Annotated Code of Maryland*

**Notice of Proposed Action**

[16-062-P]

The Insurance Commissioner proposes to amend Regulations **.01**, **.02**, and **.04**, repeal existing Regulations **.03** and **.05–.08**, and adopt new Regulations **.03** and **.05–.07** under **Examination of Principal Management or Controllers of Insurers**.

**Statement of Purpose**

The purpose of this action is to update certain provisions of COMAR that provide for the suitability of certain individuals who exercise control of any substantial portion of insurance companies that do business in the State. Specifically, these amendments specify the circumstances under which certain insurance companies are required to submit biographical affidavits of principal management to the Maryland Insurance Administration, and the means by which the Maryland Insurance Administration may verify the information contained therein. These proposed amendments implement procedures recommended by the National Association of Insurance

Commissioners in their 2014 Company Licensing Best Practices Handbook.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** These proposed regulations will result in a minimal decrease in expenditures for the Maryland Insurance Administration and a minimal increase in costs for insurance companies.

	Revenue (R+/R-)	
<b>II. Types of Economic Impact.</b>	Expenditure (E+/E-)	Magnitude
<hr/>		
A. On issuing agency:		
Reduction in affidavit review time	(E-)	Minimal
B. On other State agencies:	NONE	
C. On local governments:	NONE	
<hr/>		
	Benefit (+) Cost (-)	Magnitude
<hr/>		
D. On regulated industries or trade groups:		
Cost of background reports	(-)	Minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. MIA staff members currently spend an average of 1½ hours reviewing information contained in each biographical affidavit submitted. Approximately 160 affidavits are currently reviewed by MIA staff per year. Under this regulation, the MIA staff will only be spending a few minutes reviewing the background report submitted by an independent third party for each affidavit submitted, opening up staff resources which may be expended elsewhere.

D. Insurance companies are responsible for the payment of the services provided by the independent third party for the preparation and submission of background reports to the Commissioner. The cost per report is approximately \$300, which is not significant.

**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 Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 Saint Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2201, or email to [insuranceregreview.mia@maryland.gov](mailto:insuranceregreview.mia@maryland.gov), or fax to 410-468-2020. Comments will be accepted through March 21, 2016. A public hearing has not been scheduled.

**.01 [Authority and] Purpose and Scope.**

[This chapter is promulgated to supplement the statutory provisions set forth in Insurance Article, §§2-206, 3-104, and 4-115, Annotated Code of Maryland.] The purpose of [the] *this* chapter is to ensure protection [to] of the public interest [in the promotion of insurance companies proposed to be operated in Maryland] by providing for the evaluation of the suitability of certain individuals who exercise control of any substantial portion of certain entities that do insurance business in the State, including an insurer, health maintenance organization, managed care organization, fraternal benefit society, nonprofit health service plan, and dental plan organization.

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) [“Person” means an individual, insurer, company, association, organization, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, and any other legal entity.] “Affiant” means an individual who certifies to the accuracy of statements made in a biographical affidavit.

(2) [Principal Management.

(a) “Principal Management” means any person, with or without title, exercising effective control of any substantial portion of the general business of the promoter or insurer.

(b) Principal management includes, but is not limited to, the chairman of the board, president, vice president, secretary, treasurer, controller, actuary, directors, and members of the executive committee.] “Applicant” means a person who submits a biographical affidavit pursuant to Regulation .03A of this chapter.

(3) “Approved independent third party” means an independent third party as defined in §B(12) of this regulation that is on the currently approved independent third party list published by the NAIC on the Uniform Certificate of Authority website.

(4) “Background report” means documentation provided by an approved independent third party that complies with NAIC’s “Best Practices for NAIC Background Investigations” and details information verified or discovered in the course of the background investigation, or both.

(5) “Biographical affidavit” means the current NAIC Form 11, “Biographical Affidavit”, of the NAIC Uniform Certificate of Authority Application and must include a completed, state-specific “Disclosure and Authorization Concerning Background” form.

(6) “Certificate of authority” has the meaning stated in Insurance Article, §1-101, Annotated Code of Maryland.

(7) “Control” has the meaning stated in Insurance Article, §7-101, Annotated Code of Maryland.

(8) “Dental plan organization” has the meaning stated in Insurance Article, §14-401(c), Annotated Code of Maryland.

(9) “Entity” includes an insurer, health maintenance organization, managed care organization, fraternal benefit society, nonprofit health service plan, and dental plan organization.

(10) “Fraternal benefit society” has the meaning stated in Insurance Article, §8-402(a), Annotated Code of Maryland.

(11) “Health maintenance organization” has the meaning stated in Health-General Article, §19-701(g), Annotated Code of Maryland.

(12) “Independent third party” means a consumer reporting agency regulated by the Federal Trade Commission and, therefore, subject to the Fair Credit Reporting Act:

(a) That is able to verify information contained in the biographical affidavit through the use of domestic and international resources;

(b) Whose officers, directors, or both, have stock ownership amounting to 1 percent or less of the applicant’s outstanding stock,

unless the Commissioner grants written approval of an entity in which the officers, directors, or both, have more than 1 percent stock ownership; and

(c) That is at all times compliant with the “NAIC Background Investigation Guidelines” and Regulations .06 and .07 of this chapter relevant to the preparation of the background report and its submission to the Commissioner.

(13) “Insurer” has the meaning stated in Insurance Article, §1-101(g), Annotated Code of Maryland.

(14) “Managed care organization” has the meaning stated in Health-General Article, §15-101(e), Annotated Code of Maryland.

(15) “NAIC” means the National Association of Insurance Commissioners.

(16) “Nonprofit health service plan” has the meaning stated in Insurance Article, §14-102, Annotated Code of Maryland.

(17) “Person” has the meaning stated in Insurance Article, §1-101, Annotated Code of Maryland.

(18) “Principal management” means any person, regardless of title, who exercises control of any substantial portion of the general business of the insurer and may include the:

(a) Chairman of the board;

(b) President;

(c) Vice president;

(d) Secretary;

(e) Treasurer;

(f) Controller or comptroller;

(g) Actuary;

(h) Directors; and

(i) Members of the executive committee.

(19) “Provider sponsored organization” has the meaning stated in Health-General Article, §19-7A-01(f), Annotated Code of Maryland.

(20) “Uniform Certificate of Authority Expansion Application” means the NAIC’s uniform process, adopted by the Commissioner, for use by an entity that wishes to expand its operations into one or more states.

(21) “Uniform Certificate of Authority Primary Application” means the NAIC’s uniform process, adopted by the Commissioner, for use in the formation of a new insurer to be domiciled in Maryland in order to obtain a certificate of authority, or for a foreign entity to use in making application to redomesticate to Maryland from another state.

**.03 Biographical Affidavit.**

A. Biographical affidavits shall be submitted when:

(1) An entity files an application for a certificate of authority using the NAIC Uniform Certificate of Authority Primary Application;

(2) A foreign entity files an application for a certificate of authority using the Uniform Certificate of Authority Expansion Application;

(3) A foreign entity files an application to redomesticate to Maryland using the Uniform Certificate of Authority Primary Application;

(4) A change in principal management of a domestic insurer or other entity subject to Insurance Article, Title 7, Annotated Code of Maryland, is reported in a registration statement pursuant to Insurance Article, §7-603, Annotated Code of Maryland; and

(5) Any person seeking to acquire control of an insurer or other entity files a statement pursuant to Insurance Article, §7-304, Annotated Code of Maryland.

B. Upon written request of the Commissioner and within 30 days of such a request, a foreign entity holding a current certificate of authority in this State that had a change in principal management

shall provide a biographical affidavit for the affiant listed in the request.

C. For any change in principal management of a domestic entity, a person shall submit a biographical affidavit for the affiant within 30 days of the date of change.

**.04 Biographical Affidavit and Disclosure Authorization Format.**

A. *Form.* Each biographical affidavit [and disclosure authorization required by this chapter shall be furnished in the format set forth in Regulation .08 of this chapter, and it shall be signed by the individual whose biographical affidavit and disclosure authorization it is and by the chief executive officer of the firm which is promoting the insurer] required by this chapter shall be submitted to the Commissioner and the approved independent third party in a legible format, in the most recent form made available by the NAIC.

B. *Contents.* The biographical affidavit requires an affiant to provide information, including the affiant’s employment history, education, personal information, and character.

C. *Date.* Biographical affidavits must be certified by the affiant, notarized, and dated no earlier than 1 year prior to the date of submission of the application or statement, or management change.

D. *NAIC Disclosure and Authorization Concerning Background Form.*

(1) *Consent to Release Information.* By completing the NAIC “Disclosure and Authorization Concerning Background” form, the affiant consents to:

(a) The release of the information in the biographical affidavit to the approved independent third party;

(b) The background investigation conducted by the approved independent third party; and

(c) The approved independent third party’s release of the results of its background report to the Commissioner.

(2) An affiant may revoke the authorization at any time by delivering a written revocation to the applicant.

(3) The applicant shall, upon an affiant’s action pursuant to §D(2) of this regulation, forward such revocation promptly to any approved independent third party that either prepared or is preparing a background report under the “NAIC Disclosure and Authorization Concerning Background” form.

**.05 Considerations Regarding Independent Third Parties.**

A. The applicant is responsible for selecting an independent third party to perform the verification of the information contained in all submitted biographical affidavits.

B. When selecting the independent third party, the applicant:

(1) Must select an approved independent third party; and

(2) Is responsible for ensuring that the independent third party it selects is able to perform a complete investigation in the applicable jurisdictions.

C. The applicant is responsible for the payment of the services provided by the approved independent third party for the preparation and submission of the background report to the Commissioner.

**.06 Background Report.**

A. *Contents.* A background report shall conform to the NAIC Background Investigation Guidelines and the Best Practices for NAIC Background Investigations for the preparation and content of the response from an approved independent third party.

B. *Submission Requirements.*

(1) The background report shall be prepared by an approved independent third party.

(2) Background reports must be submitted directly to the Commissioner by the approved independent third party.

(3) The applicant is responsible for ensuring that the background report has been provided to the Commissioner.

**.07 Review of Submitted Information.**

The information contained in the biographical affidavit, the background report, and any other information deemed relevant by the Commissioner will be reviewed by the Commissioner to evaluate the suitability, competency, character, and integrity of the affiant. The review will also evaluate whether discrepancies or inconsistencies exist between information disclosed in the biographical affidavit and the background report and whether follow-up action should be taken.

ALFRED W. REDMER, JR.  
Insurance Commissioner

**Title 33  
STATE BOARD OF  
ELECTIONS**

**Subtitle 01 DEFINITIONS; GENERAL  
PROVISIONS**

**33.01.01 Definitions**

Authority: Election Law Article, §§1-101, 2-102(b)(4), and 3-101; State Government Article, §15-715(g); Annotated Code of Maryland; [42 U.S.C. §§1973ff-6 and 15483(a)(5)(A)—(B)] 52 U.S.C. §§20301 and 21083

**Notice of Proposed Action**

[16-064-P]

The State Board of Elections proposes to amend Regulation .01 under COMAR 33.01.01 Definitions. This action was considered by the State Board of Elections at its September 24, 2015 meeting, notice of which was given in accordance with State Government Article, §10-506(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to reflect the current practice of the State Board of Elections (SBE) personnel processing voter registration and absentee transactions for military and overseas voters. This is required because SBE received a grant from the U.S. Department of Defense’s Federal Voting Assistance Program to create central processing of election-related transactions for military and overseas voters.

The citation in the authority line is amended since the location in the U.S. Code of the Uniformed and Overseas Civilians Absentee Voting Act has been transferred from Title 42 to a new title, Title 52.

**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 Erin Perrone, Administrative Assistant, State Board of Elections, P.O. Box 6486, Annapolis, MD 21401, or call 410-269-2845, or email to erin.perrone@maryland.gov, or fax to 410-974-2019. Comments will be accepted through March 21, 2016. A public hearing has not been scheduled.