

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010 (Act), effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.01, *et seq.* (2012 Repl.)), and Mayor's Order 2013-201, dated October 28, 2013, hereby gives notice of the adoption of, on an emergency basis, the following amendments to Subtitle C (Medical Marijuana) of Title 22 (Public Health and Medicine) of the District of Columbia Municipal Regulations (DCMR).

This emergency action is being taken in order to enable the District to expeditiously meet the needs of those individuals who are suffering from serious medical conditions for which, based on their physician's recommendation, the use of medical marijuana may be beneficial.

On April 7, 2014, the Director received the first report of the Medical Marijuana Advisory Committee's Scientific Subcommittee ("Scientific Subcommittee"). The report addressed the Scientific Subcommittee's recommendations for the approval of additional qualifying medical conditions. Having considered the Scientific Subcommittee's report, and all information presented on this issue, the Director has determined that the following new qualifying medical conditions should be approved at this time for treatment with the use of medical marijuana.

This emergency rule was adopted on May 23, 2014, and became effective Thursday, May 29, 2014. The emergency rule will expire one hundred twenty (120) days from the date of adoption (September 21, 2014), or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The Director of the Department of Health also gives notice of his intent to adopt this rule, in final, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, and upon completion of the thirty (30) day Council period of review if the Council does not act earlier to adopt a resolution approving the rules.

Chapter 2, CONDITIONS OF REGISTRATION, of Title 22-C, MEDICAL MARIJUANA, is amended by adding a new section 201 as follows:

Section 201, QUALIFYING MEDICAL CONDITIONS AND TREATMENTS, is added to read as follows:

201 QUALIFYING MEDICAL CONDITIONS AND TREATMENTS

201.1 As of the effective date of this regulation, the qualifying medical conditions and qualifying medical treatments required for participation in the District's Medical Marijuana Program shall include both the statutorily-approved conditions set forth in the Act, and the Department-approved conditions set forth in this chapter.

201.2 The Director finds that the Department-approved conditions set forth in this chapter result in suffering or debility for which there is evidence or information that the medical use of marijuana could be of benefit. The Director accordingly approves these conditions for participation in the District's Medical Marijuana Program. Recognizing the evolving nature of the science, the Director reserves the right to re-evaluate the continued approval of each of the Department-approved conditions. In approving the addition of these medical conditions, the Director finds that each meets the requirements of the Act for the addition of new qualifying conditions.

201.3 The statutorily-approved qualifying medical conditions are:

- (a) Human immunodeficiency virus;
- (b) Acquired immune deficiency syndrome;
- (c) Glaucoma;
- (d) Conditions characterized by severe and persistent muscle spasm, such as multiple sclerosis; and
- (e) Cancer.

201.4 The statutorily-approved qualifying medical treatments are:

- (a) Chemotherapy;
- (b) The use of azidothymidine or protease inhibitors; and
- (c) Radiotherapy.

201.5 The Department-approved qualifying medical conditions are:

- (a) Decompensated cirrhosis;
- (b) Amyotrophic lateral sclerosis (Lou Gehrig's disease);
- (c) Hospice patients with less than 6 months to live;
- (d) Cachexia or wasting syndrome for individuals who are 18 years old and older;
- (e) Alzheimer's Disease, which shall be diagnosed by a neurologist, but can be recommended by any qualified physician; and

- (f) Seizure disorders; however, for individuals who are under the age of 18, the diagnosis of seizure disorders shall be made by a Board-certified pediatrician, but can be recommended by any qualified physician.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Administrative Assistant, at Angli.Black@dc.gov, (202) 442-5977.