

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Acting 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 Supp.)), and Mayor’s Order 2011-71, dated April 13, 2011, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Subtitle C (Medical Marijuana) of Title 22 (Public Health and Medicine) of the District of Columbia Municipal Regulations (DCMR) 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.

The purpose of this rulemaking is to add a new Chapter 63, to set forth the provision of medical marijuana on a sliding scale to qualifying patients determined eligible, pursuant to § 1300.4 of this subchapter.

These rules were published in the *D.C. Register* as proposed rulemaking on March 29, 2013 at 60 DCR 4863. Written comments were received from Americans for Safe Access and Capital City Care in connection with this publication during the 30-day comment period. The Department of Health (Department) considered the comments and determined that further amendments were needed. Therefore, additional changes were made to the proposed rulemaking in §§ 6300.1-6300.3, and 6300.5-6300.6. These changes eliminate a Department controlled fund and instead place the onus on each dispensary to ensure compliance with the sliding scale program, and to submit reports demonstrating such to the Department subject to auditing by the Department.

Therefore the rulemaking is being republished for an additional 30-day comment period.

A new Chapter 63, SLIDING SCALE PROGRAM, of Subtitle C is added to Title 22 of the DCMR to read as follows:

6300 SLIDING SCALE PROGRAM

6300.1 A registered dispensary shall devote two percent (2%) of its annual gross revenue to provide medical marijuana on a sliding scale to qualifying patients determined eligible pursuant to § 1300.4 of this subchapter.

6300.2 Not later than February 15th of each calendar year, each registered dispensary in the District of Columbia shall submit to the Director:

- (a) A statement of its gross revenues for the previous calendar year;
- (b) A statement detailing how the dispensary devoted two percent (2%) of its annual gross revenue to eligible qualifying patients on a sliding scale,

which shall include:

- (1) The name, patient registration number, and date of dispensing for each patient who received medical marijuana on a sliding scale during the previously calendar year; and
 - (2) The discounted amount provided to patients under this program; and
- (c) An attestation, made under penalty of perjury, of the accuracy and truthfulness of the statements submitted pursuant to this subsection.
- 6300.3 A qualifying patient who establishes pursuant to § 1300.4 of this subchapter that his or her income is equal to or less than two hundred percent (200%) of the federal poverty level, shall be entitled to purchase medical marijuana directly, or through a caregiver, on a sliding scale from a registered dispensary in the District of Columbia.
- 6300.4 A registered dispensary shall sell medical marijuana to a qualifying patient, who is registered to purchase medical marijuana on a sliding scale, and possesses a registration card denoting such, at a discount of not less than twenty (20%) of its regular retail price.
- 6300.5 Not later than April 15th of each calendar year, the Department shall review the sliding scale program. As part of its review, the Department may adjust the percentage required to be devoted by dispensaries and the required discount to qualifying patients.
- 6300.6 The gross revenue amount to be devoted by each dispensary to the sliding scale program shall be subject to audit by the Department.
- 6300.7 In addition to any other applicable sanctions, any dispensary that fails to comply with the provisions of this chapter shall be subject to a civil fine under the Civil Infractions Act of two thousand dollars (\$2,000.00) per offense, and each day of violation shall constitute a separate offense.
- 6300.8 Notwithstanding Subsection 6300.7 of this chapter, the Director may revoke the registration of a dispensary that commits egregious or multiple violations of this chapter; that uses fraud to conceal its annual gross revenue; or that submits false or misleading reports to the Director.

Comments on this rule should be submitted, in writing, to Patricia D'Antonio, DC Department of Health, 899 N. Capitol Street, NE, Second Floor, Washington, D.C. 20002, or to Doh.mmp@dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available Monday through Friday between the hours

of 8:30 a.m. and 4:00 p.m. from Patricia D'Antonio, DC Department of Health, 899 N. Capitol Street, NE, Second Floor, Washington D.C. 20002.