

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Legalization of Marijuana for Medical Treatment Initiative of 1999 to allow patients enrolled in another jurisdiction’s medical marijuana program to participate in the District’s medical marijuana program, to require the implementation of a medical marijuana electronic tracking system, to provide for the registration of independent medical marijuana testing facilities by the Department of Health, to require independent testing of medical marijuana before distribution, to allow medical marijuana cultivation centers to expand into adjacent real property, to increase the plant count limit from 500 to 1000, and to provide for the relocation and change in ownership of dispensaries, cultivation centers, and testing laboratories; and to amend the District of Columbia Health Occupations Revision Act of 1985 to allow additional health professionals to recommend medical marijuana, and to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Marijuana Omnibus Amendment Act of 2016”.

Sec. 2. The Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-1671.01), is amended as follows:

(1) Paragraph (1) is redesignated as paragraph (1A).

(2) A new paragraph (1) is added to read as follows:

“(1) “Adjacent” means located within the same physical structure as, and is abutting, adjoining, bordering, touching, contiguous to, or otherwise physically meeting.”.

(3) New paragraphs (1B) and (1C) are added to read as follows:

(1B) “Advanced practice registered nurse” means an individual licensed and in good standing to practice advanced practice registered nursing under District law.

“(1C) “Authorized practitioner” means a physician, advanced practice registered nurse, physician assistant, dentist, or naturopathic physician who is licensed and in good standing to practice under District law.”.

(4) Paragraph (2) is amended as follows:

(A) The lead-in language is amended as follows:

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(i) Strike the phrase “physician-patient relationship” and insert the phrase “relationship with a qualifying patient” in its place.

(ii) Strike the phrase “a physician and patient in which the physician” and insert the phrase “an authorized practitioner and qualifying patient for which the authorized practitioner” in its place.

(B) Subparagraph (A) is amended to read as follows:

“(A) Has completed a full assessment of the patient’s medical or dental history and current medical or dental condition, including a personal physical or dental examination; and”.

(5) Paragraph (3) is amended as follows:

(A) Subparagraph (A) is amended by striking the word “dispense,” and inserting the phrase “dispense, administer,” in its place.

(B) Subparagraph (C) is amended by striking the phrase “Is not currently” and inserting the phrase “Is not currently, with the exception of caregivers providing services on behalf of nursing homes and hospices, as those terms are defined in sections (2)(a)(3) and (6), respectively, of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(a)(3) and (6)),” in its place.

(6) A new paragraph (5A) is added to read as follows:

“(5A) “Dentist” means an individual who is licensed and in good standing to practice dentistry under District law, but does not include an individual who only holds a dental teaching license.”.

(7) A new paragraph (12A) is added to read as follows:

“(12A) “Medical marijuana product” means a product derived from or composed of medical marijuana, in part or in whole.”.

(8) A new paragraph (13A) is added to read as follows:

“(13A) “Naturopathic physician” means an individual who is licensed and in good standing to practice naturopathic medicine under District law.”.

(9) A new paragraph (15A) is added to read as follows:

“(15A) “Physician assistant” means an individual who is licensed and in good standing to practice as a physician assistant under District law.”.

(10) Paragraph (17) is amended as follows:

(A) Strike the phrase “Qualifying medical” and insert the phrase “Qualifying medical or dental” in its place.

(B) Strike the word “physician” and insert the phrase “authorized practitioner” in its place.

(11) Paragraph (18) is amended as follows:

(A) The lead-in language is amended by striking the phrase “Qualifying medical” and inserting the phrase “Qualifying medical or dental” in its place.

(B) Subparagraph (D) is amended by striking the phrase “qualifying medical” and inserting the phrase “qualifying medical or dental” in its place.

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(12) Paragraph (19) is amended by striking the phrase “medical condition or is undergoing a qualifying medical treatment.” and inserting the phrase “medical or dental condition or is undergoing a qualifying medical or dental treatment, or a patient enrolled in another jurisdiction’s medical marijuana program; provided, that a patient from another jurisdiction shall not be a qualifying patient if the Department determines that there is a shortage of medical marijuana or the real-time electronic records system referenced in section 6(4)(A) is inactive.” in its place.

(13) A new paragraph (19A) is added to read as follows:

“(19A) “Real-time electronic records” means a records system that is able to track the amount of medical marijuana that District residents and patients from another jurisdiction purchase in real-time.”.

(14) A new paragraph (21) is added to read as follows:

“(21) “Testing laboratory” means an entity that is not owned or operated by a director, officer, member, incorporator, agent, or employee of a cultivation center or dispensary, and is registered by the Department to test medical marijuana and medical marijuana products that are to be sold under this act.”.

(b) Section 3(c) (D.C. Official Code § 7-1671.02(c)) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) Designate the existing text as subparagraph (A).

(B) The newly designated subparagraph (A) is amended by striking the phrase “from a physician” and inserting the phrase “from an authorized practitioner” in its place.

(2) Paragraph (2) is amended as follows:

(A) Redesignate the existing text as paragraph (1)(B).

(B) The newly designated paragraph (1)(B) is amended by striking the phrase “section 6” and inserting the phrase “section 6; or” in its place.

(3) A new paragraph (2) is added to read as follows:

“(2) Enrolled in another jurisdiction’s medical marijuana program.”.

(c) Section 4 (D.C. Official Code § 7-1671.03) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “the qualifying patient’s residence, if permitted” and inserting the phrase “the qualifying patient’s residence, if permitted, the residence of an individual who has given permission to the qualifying patient to administer medical marijuana at his or her residence, if permitted” in its place.

(B) Paragraph (2) is amended by striking the phrase “dispensary or cultivation center” and inserting the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(2) Subsection (f) is amended by striking the phrase “cultivation center or dispensary” and inserting the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(3) Subsection (g) is amended by striking the phrase “cultivation center or a dispensary” and inserting the phrase “dispensary, cultivation center, or testing laboratory” in its

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place.

(d) Section 5 (D.C. Official Code § 7-1671.04) is amended as follows:

(1) The section heading is amended by striking the word “physician” and inserting the phrase “authorize practitioner” in its place.

(2) Subsection (a) is amended as follows:

(A) The lead-in language is amended as follows:

(i) Strike the phrase “A physician” and insert the phrase “An authorized practitioner” in its place.

(ii) Strike the phrase “the physician” and insert the phrase “the authorized practitioner” in its place.

(B) Paragraph (1) is amended by striking the phrase “bona fide physician-patient relationship with the qualifying patient” and inserting the phrase “bona fide relationship with the qualifying patient” in its place.

(C) Paragraph (2) is amended as follows:

(i) Strike the word “physician’s” and insert the phrase “authorized practitioner’s” in its place.

(ii) Strike the word “medical” wherever it appears and insert the phrase “medical or dental” in its place.

(3) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) The lead-in language is amended as follows:

(I) Strike the phrase “A physician’s recommendation” and insert the phrase “An authorized practitioner’s recommendation” in its place.

(II) Strike the phrase “the physician” and insert the phrase “the authorized practitioner” in its place.

(ii) Subparagraph (A) is amended by striking the phrase “physician’s medical license number” and inserting the phrase “authorized practitioner’s board-issued license number” in its place.

(iii) Subparagraph (B) is amended by striking the phrase “medical condition or the side effects of a qualifying medical treatment” and inserting the phrase “medical or dental condition or the side effects of a qualifying medical or dental treatment” in its place.

(B) Paragraph (2) is amended by striking the phrase “A physician’s” and inserting the phrase “An authorized practitioner’s” in its place.

(4) Subsection (d) is amended as follows:

(A) Strike the phrase “A physician” and insert the phrase “An authorized practitioner” in its place.

(B) Strike the phrase “dispensary or cultivation center” wherever it appears and insert the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(e) Section 6 (D.C. Official Code § 7-1671.05) is amended as follows:

(1) The lead-in language is amended by striking the phrase “possession, and administration” and inserting the phrase “possession, testing, and administration” in its place.

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(2) Paragraph (1) is amended as follows:

(A) Subparagraph (A)(i) is amended by striking the phrase “patients;” and inserting the phrase “patients, except qualifying patients enrolled in another jurisdiction’s medical marijuana program under section 3(c)(2);” in its place.

(B) Subparagraph (B) is amended as follows:

(i) Sub-subparagraph (i) is repealed.

(ii) Sub-subparagraph (ii) is amended by striking the phrase “physician’s recommendation” and inserting the phrase “authorized practitioner’s recommendation” in its place.

(3) Paragraph (2) is amended as follows:

(A) Subparagraph (B) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(B) A new subparagraph (B-i) is added to read as follows:

“(B-i) Testing laboratories; and”.

(C) Subparagraph (C) is amended by striking the phrase “dispensaries and cultivation centers;” and inserting the phrase “dispensaries, cultivation centers, and testing laboratories;” in its place.

(4) Paragraph (3) is amended by striking the phrase “distribute, or possess medical marijuana” and inserting the phrase “distribute, test, or possess medical marijuana” in its place.

(5) Paragraph (4) is amended as follows:

(A) The lead-in language is amended by striking the phrase “dispensaries and cultivation centers” and inserting the phrase “dispensaries, cultivation centers, and testing laboratories” in its place.

(B) Subparagraph (A) is amended as follows:

(i) The lead-in language is amended by striking the phrase “and current records” and inserting the phrase “and real-time electronic records” in its place.

(ii) Sub-subparagraph (ii) is amended as follows:

(I) The lead-in language is amended by striking the phrase “A record of each transaction,” and inserting the phrase “Each transaction conducted by the facility,” in its place.

(II) Sub-sub-subparagraph (I) is amended by striking the phrase “distributed or dispensed” and inserting the phrase “tested, distributed, or dispensed” in its place.

(III) Sub-sub-subparagraph (II) is amended by striking the phrase “the medical marijuana” and inserting the phrase “the medical marijuana, if any” in its place.

(iii) Sub-subparagraph (iii) is amended by striking the phrase “dispensary or cultivation center” and inserting the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(iv) Sub-subparagraph (iv) is amended by striking the phrase “but

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not sold” and inserting the phrase “but that did not meet the requirements for sale established by the Department through rulemaking under paragraph (5A) of this section or that was not sold for any other reason” in its place.

(6) New paragraphs (5A) and (5B) are added to read as follows:

“(5A) Upon the registration of at least one testing laboratory under paragraph (2)(B-i) of this section and pursuant to rules issued by the Department, require that cultivation centers segregate all harvested medical marijuana into batches before manufacturing any medical marijuana product or packaging raw medical marijuana for sale to a dispensary and hold the harvested medical marijuana from sale until:

“(A) The medical marijuana has been tested by a testing laboratory;

“(B) The cultivation center has received the information required under paragraph (5B) of this section; and

“(C) The cultivation center has determined that the medical marijuana meets the requirements for sale established by the Department through rulemaking;

“(5B) Require testing laboratories to provide cultivation centers with the following information after testing harvested medical marijuana samples:

“(A) The concentration of tetrahydrocannabinol and cannabidiol in the testing material;

“(B) Whether the tested material is organic or non-organic;

“(C) The presence and concentration of fertilizers and other nutrients; and

“(D) Any other information that the Department may require through rulemaking;”.

(7) Paragraph (9) is amended as follows:

(A) Strike the phrase “fees for dispensaries and cultivation centers” and insert the phrase “fees for dispensaries, cultivation centers, and testing laboratories” in its place.

(B) Strike the phrase “employees of dispensaries and cultivation centers” and insert the phrase “employees of dispensaries, cultivation centers, and testing laboratories” in its place.

(8) Paragraph (11) is amended as follows:

(A) The lead-in language is amended by striking the phrase “physicians,” and inserting the phrase “authorized practitioners,” in its place.

(B) Subparagraph (E) is amended by striking the word “physicians” and inserting the phrase “authorized practitioners” in its place.

(9) Paragraph (12) is amended by striking the phrase “dispensary and cultivation center” and inserting the phrase “dispensary, cultivation center, and testing laboratory” in its place.

(10) Paragraph (13) is amended as follows:

(A) Subparagraph (A) is amended as follows:

(i) Strike the phrase “to all Advisory Neighborhood Commissions in the affected ward” and insert the phrase “to the Councilmember and all Advisory Neighborhood Commissions in the affected ward” in its place.

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(ii) Strike the phrase “dispensary or cultivation center” and insert the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(B) Subparagraph (B) is amended by striking the phrase “dispensary or cultivation center” and inserting the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(f) Section 7 (D.C. Official Code § 7-1671.06) is amended as follows:

(1) A new subsection (b-1) is added to read as follows:

“(b-1) Notwithstanding any other District law, a testing laboratory may possess medical marijuana for the purpose of testing its contents, in accordance with this act and the rules issued pursuant to section 14.”

(2) Subsection (d) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase “dispensary and cultivation center” and insert the phrase “dispensary, cultivation center, and testing laboratory” in its place.

(ii) Strike the phrase “possessing, or distributing medical marijuana,” and insert the phrase “possessing, testing, or distributing medical marijuana,” in its place.

(B) Paragraph (3)(A) is amended to read as follows:

“(3)(A) The number of cultivation centers and testing laboratories that may be registered to operate in the District shall be determined by rulemaking; provided, that the combined total number of cultivation centers and testing laboratories registered to operate within an election ward established by the Council in section 4 of the Redistricting Procedure Act of 1981, effective March 16, 1982 (D.C. Law 4-87; D.C. Official Code § 1-1041.03), shall not exceed 6.”

(C) A new paragraph (4) is added to read as follows:

“(4) The Mayor may approve the holder of a cultivation center registration that also owns, or has a valid lease for, real property adjacent to its existing cultivation center to physically expand the registered cultivation center into that adjacent real property for the purpose of increasing production of medical marijuana.”

(3) Subsection (e)(2) is amended by striking the number “500” and inserting the number “1,000” in its place.

(4) Subsection (f) is amended by striking the phrase “dispensary or a cultivation center” and inserting the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(5) Subsection (g) is amended by striking the phrase “dispensary or cultivation center” and inserting the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(6) New subsections (g-2) and (g-3) are added to read as follows:

“(g-2) A dispensary, cultivation center, or testing laboratory may be permitted to relocate within an election ward upon approval from the Mayor.

“(g-3) A dispensary, cultivation center, or testing laboratory may be permitted to change ownership or controlling interest upon approval from the Mayor.”

(7) Subsection (h) is amended by striking the phrase “dispensary and cultivation

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center” and inserting the phrase “dispensary, cultivation center, and testing laboratory” in its place.

(8) Subsection (j) is amended to read as follows:

“(j) No director, officer, member, incorporator, agent, or employee of a dispensary, cultivation center, or testing laboratory who has access to the medical marijuana at the dispensary, cultivation center, or testing laboratory shall have a felony conviction; provided, that the Mayor shall not disqualify any of the forgoing individuals solely for a felony conviction of possession with intent to distribute marijuana that occurred before the effective date of the Marijuana Possession Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code § 48-1201 *et seq.*).”

(9) Subsection (k) is amended by striking the phrase “dispensary or cultivation center” wherever it appears and inserting the phrase “dispensary, cultivation center, or testing laboratory” in its place.

(g) Section 8 (D.C. Official Code § 7-1671.07) is amended as follows:

(1) The section heading is amended as follows:

(A) Strike the phrase “Board of Medicine” and insert the phrase “Health Occupations Boards” in its place.

(B) Strike the phrase “physician” and insert the phrase “authorized practitioner” in its place.

(2) Subsection (a) is amended as follows:

(A) Strike the phrase “The Board of Medicine” and insert the phrase “The Boards of Medicine, Nursing, and Dentistry” in its place.

(B) Strike the phrase “written physician recommendations” and insert the phrase “written authorized practitioner recommendations” in its place.

(C) Strike the phrase “physicians” and insert the phrase “authorized practitioners under their licensing authority” in its place.

(3) Subsection (b) is amended as follows:

(A) Strike the phrase “The Board of Medicine” and insert the phrase “The relevant licensing board” in its place.

(B) Strike the phrase “any physician” and insert the phrase “any authorized practitioner” in its place.

(4) Subsection (c) is amended as follows:

(A) Strike the phrase “a license to practice medicine or osteopathy” and insert the phrase “an authorized practitioner’s license” in its place.

(B) Strike the phrase “or both.” and insert the phrase “or both, at the licensing board’s discretion.” in its place.

(h) Section 11(a) (D.C. Official Code § 7-1671.10(a)) is amended as follows:

(1) Strike the phrase “dispensaries, and qualifying patients” and insert the phrase “dispensaries, testing laboratories, and qualifying patients” in its place.

(2) Strike the phrase “cultivation centers and dispensaries” and insert the phrase “cultivation centers, dispensaries, and testing laboratories” in its place.

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(i) Section 14(a) (D.C. Official Code § 7-1671.13(a)) is amended as follows:

(1) Paragraph (2) is amended by striking the phrase “sufficient information” and inserting the phrase “sufficient and accurate information, verified by a testing laboratory,” in its place.

(2) Paragraph (3) is amended by striking the phrase “cultivation center and dispensary” and inserting the phrase “cultivation center, dispensary, and testing laboratory” in its place.

(3) Paragraph (4) is amended by striking the phrase “dispensaries and cultivation centers” and inserting the phrase “dispensaries, cultivation centers, and testing laboratories” in its place.

(4) Paragraph (6) is amended by striking the phrase “dispensary or cultivation center; and” and inserting the phrase “dispensary, cultivation center, or testing laboratory;” in its place.

(5) Paragraph (7) is amended by striking the phrase “distribute;” and inserting the phrase “distribute; and” in its place.

(6) A new paragraph (8) is added to read as follows:

“(8) Within 6 months after the effective date of the Medical Marijuana Omnibus Amendment Act of 2016, passed on 2nd reading on November 1, 2016 (Enrolled version of Bill 21-210), determine the process for permitting a dispensary, cultivation center, or testing laboratory to:

“(A) Relocate within an election ward, established by the Council in section 4 of the Redistricting Procedure Act of 1981, effective March 16, 1982 (D.C. Law 4-87; D.C. Official Code § 1-1041.03), pursuant to section 7(g-2); and

“(B) Change ownership or controlling interest pursuant to section 7(g-3).”.

Sec. 3. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), is amended as follows:

(a) Section 201 (D.C. Official Code § 3-1202.01) is amended by adding a new subsection (h) to read as follows:

“(h) Pursuant to section 8 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*) (“Initiative”), the Board shall review and audit written recommendations for the use of medical marijuana issued by dentists pursuant to section 5 of the Initiative and shall have the authority to discipline any dentist who has acted outside the scope of the dentist’s authority under the Initiative.”.

(b) Section 203 (D.C. Official Code § 3-1202.03) is amended as follows:

(1) Subsection (a)(8) is amended by striking the word “his” in the lead-in language and inserting the phrase “his or her” in its place.

(2) Subsection (a-2) is amended as follows:

(A) Strike the word “physicians” and insert the phrase “a physician, individual licensed to practice naturopathic medicine, or physician assistant” in its place.

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(B) Strike the word “physician” and insert the phrase “physician, individual licensed to practice naturopathic medicine, or physician assistant” in its place.

(C) Strike the phrase “the physician’s” and insert the phrase “such person’s” in its place.

(c) Section 204 (D.C. Official Code § 3-1202.04) is amended by adding a new subsection (g) to read as follows:

“(g) Pursuant to section 8 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*) (“Initiative”), the Board shall review and audit written recommendations for the use of medical marijuana issued by advanced practice registered nurses pursuant to section 5 of the Initiative and shall have the authority to discipline any advanced practice registered nurse who has acted outside the scope of the advanced practice registered nurse’s authority under the Initiative.”

(d) Section 514(a)(19) (D.C. Official Code § 3-1205.14(a)(19)) is amended by striking the word “dispenses,” and inserting the phrase “dispenses, recommends,” in its place.

(e) Section 601(a) (D.C. Official Code § 3-1206.01(a)) is amended as follows:

“(1) Strike the word “prescription,” and insert the phrase “prescription, recommendation,” in its place.

“(2) Strike the period at the end and insert the phrase “, or by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*)” in its place.

(f) Section 621(b)(1) (D.C. Official Code § 3-1206.21(b)(1)) is amended as follows:

(1) Strike the word “dispense,” and insert the phrase “dispense, recommend,” in its place.

(2) Strike the word “act” and inserting the phrase “act, or by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*)” in its place.

Sec. 4. Applicability.

(a) Sections 2(b)(3), (e)(2)(B)(i), and (e)(5)(B)(i) shall apply upon the date of inclusion of their fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

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Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia