



2017 SEP 18 AM 9:01  
OFFICE OF THE  
SECRETARY

**MURIEL BOWSER**  
**MAYOR**

SEP 18 2017

The Honorable Phil Mendelson  
Chairman  
Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W., Suite 504  
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for Council consideration is the "Medical Marijuana Authorized Number of Dispensaries Increase Rulemaking Approval Resolution of 2017."

This resolution would approve rulemaking to amend section 5200 of Chapter 52 (Registration Limitations) of Title 22-C of the District of Columbia Municipal Regulations (DCMR), adopted by the Department on an emergency basis. This rulemaking increases the number of dispensaries registered to operate in the District by rulemaking from six (6) to seven (7) so that a new dispensary can be registered in Ward 7 and in Ward 8.

The Council of the District of Columbia has declared the existence of an emergency need to increase the number of medical marijuana dispensaries that may be registered to operate in the District from five (5) to six (6), and to require the Mayor to open an application period for the registration of a dispensary in Ward 7 or Ward 8. The impetus of that emergency legislation is that a quarter of the qualifying patients in the District's Medical Marijuana Program live in Wards 7 and 8, but there are no dispensaries east of the Anacostia River, resulting in a geographical barrier to access to these healthcare services. It is important for the medical marijuana program participants who live in Ward 7 and Ward 8 to have access to a medical marijuana dispensary east of the Anacostia River so that they may utilize the program as intended. To further ensure adequate access to medical marijuana for patients located in Wards 7 and 8, the Department exercised its authority under D.C. Official Code §§ 7-1671.06(d)(2)(A) to increase the number of dispensaries registered to operate in the District by rulemaking from six (6) to seven (7) so that a new dispensary can be registered in Ward 7 and in Ward 8.


I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

A handwritten signature in blue ink that reads "Muriel Bowser".

Muriel Bowser



  
Chairman Phil Mendelson  
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution, which was referred to the Committee on \_\_\_\_\_.

To approve proposed rules adopted by the Department of Health on an emergency basis to increase the number of dispensaries registered to operate in the District by rulemaking from six (6) to seven (7) so that a new dispensary can be registered in Ward 7 and in Ward 8.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the “Medical Marijuana Authorized Number of Dispensaries Increase Rulemaking Approval Resolution of 2017.”

Sec. 2. Pursuant to Sections 7(d)(2)(A) and 14(b) of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.06(d)(2)(A) and 7-1671.13(b)) the Council approves the proposed rulemaking adopted by the Department of Health on an emergency basis on \_\_\_\_\_, amending chapter 52 of Title 22-C of the District of Columbia Municipal Regulations to increase the number of dispensaries registered to operate in the District by rulemaking from six (6) to seven (7) so that a new dispensary can be registered in Ward 7 and in Ward 8.

Sec. 3. Fiscal impact.

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

4           Sec. 4. The Council shall transmit a copy of this resolution, upon its adoption, to  
5 the Mayor, the Director of the Department of Health, and the Administrator of the Office  
6 of Documents and Administrative Issuances.

7           Sec. 5. This resolution shall take effect immediately.

## DEPARTMENT OF HEALTH

### NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Sections 7(d)(2)(A) and 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.06(d)(2)(A) and 7-1671.13 (2012 Repl. and 2016 Supp.)); the Medical Marijuana Dispensary Temporary Amendment Act of 2016, effective April 1, 2017 (D.C. Law 21-234; D.C. Official Code § 7-1671.06(d)(2)); D.C. Official Code § 7-731(d); and Mayor's Order 2011-71, dated April 13, 2011, 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).

The Council of the District of Columbia has declared the existence of an emergency need to increase the number of medical marijuana dispensaries that may be registered to operate in the District from five (5) to six (6), and to require the Mayor to open an application period for the registration of a dispensary in Ward 7 or Ward 8. The impetus of that emergency legislation is that a quarter of the qualifying patients in the District's Medical Marijuana Program live in Wards 7 and 8, but there are no dispensaries east of the Anacostia River, resulting in a geographical barrier to access to these healthcare services. To further ensure adequate access to medical marijuana for patients located in Wards 7 and 8, the Department exercised its authority under D.C. Official Code §§ 7-1671.06(d)(2)(A) to increase the number of dispensaries registered to operate in the District by rulemaking from six (6) to seven (7) so that a new dispensary can be registered in Ward 7 and in Ward 8.

This emergency action is necessary to immediately preserve and promote the health, safety and welfare of the public and is being taken to enable the Department to exercising its authority to increase the number of dispensaries that may be registered in the District to seven (7) with the requirement that one dispensary shall be located in Ward 7 and one dispensary shall be located in Ward 8.

This emergency rule was adopted on June 30, 2017, and became effective on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption (October 18, 2017), 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 her 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 52, REGISTRATION LIMITATIONS, of Title 22-C, MEDICAL MARIJUANA, of the DMCR is amended as follows:**

**Section 5200, LIMITATION ON THE NUMBER OF DISPENSARIES AND CULTIVATION CENTERS, is amended as follows:**

**Subsection 5200.1 is amended to read as follows:**

5200.1        The number of dispensaries registered to operate in the District of Columbia shall not exceed seven (7). To ensure that qualifying patients have adequate access to medical marijuana, the sixth (6<sup>th</sup>) and seventh (7<sup>th</sup>) registrations shall be issued in Ward 7 and Ward 8.

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., 6<sup>th</sup> 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, Paralegal Specialist, at [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov), (202) 442-5977.

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION:  EMERGENCY RULES  
 FINAL RULES  PROPOSED RULES  COMBINED

AGENCY: Department Of Health

DATE AND TIME RECEIVED  
 Office of Documents use only

AGENCY REPRESENTATIVE: Phillip L. Husband, General Counsel

ADDRESS: 899 North Capitol Street, NE, 6<sup>th</sup> Floor, Washington, D.C. 20002 TELEPHONE: 202-442-5070

TITLE AND DESCRIPTION OF RULES: Emergency and Proposed Rulemaking to amend 22-C DCMR §§ 5200. This rulemaking increases the number of dispensaries that may be registered in the District to seven (7) with the requirement that one dispensary shall be located in Ward 7 and one dispensary shall be located in Ward 8.

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed:  
 This rulemaking amends subsection 5200.1 of § 5200 (Limitation on the Number of Dispensaries and Cultivation Centers) of Chapter 52 (Registration Limitations) of Title 22-C (Medical Marijuana).

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: \_\_\_\_\_ DCR \_\_\_\_\_ DATE: \_\_\_\_\_

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Section 7(d)(2)(A) and 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 §§ 7-1671.06(d)(2)(A) and 7-1671.13 (2016 Repl.)); and the Medical Marijuana Dispensary Temporary Amendment Act of 2016, effective April 1, 2017 (D.C. Law 21-234; D.C. Official Code § 7-1671.06(d)(2)).

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.

FINAL  CONDITIONAL

SIGNED: Janet M. Roberson PHONE: 202-724-5524

NAME: Janet M. Roberson TITLE: Deputy Legal Counsel Division

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote):

LaQuandra S. Nesbitt, MD, MPH

TITLE: Director, DOH

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules: Section 7(d)(2)(A) and 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 §§ 7-1671.06(d)(2)(A) and 7-1671.13 (2016 Repl.)); the Medical Marijuana Dispensary Temporary Amendment Act of 2016, effective April 1, 2017 (D.C. Law 21-234; D.C. Official Code § 7-1671.06(d)(2)); D.C. Official Code § 7-731(d) (2016 Repl.); and Mayor's Order 2011-71, dated April 13, 2011.

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OR VOTE: 6/30/17

APPROVAL OR ATTEST: LaQuandra S. Nesbitt, MD, MPH LaQuandra S. Nesbitt

TITLE: Director PHONE: 442-5955

Office of Documents use only:

THIS NOTICE PUBLISHED AT: \_\_\_\_\_ VOL \_\_\_\_\_ DCR \_\_\_\_\_ DATE: \_\_\_\_\_

Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** July 10, 2017

**SUBJECT:** Fiscal Impact Statement – Medical Marijuana Authorized Number of  
Dispensaries Increase Rulemaking Approval Resolution of 2017

**REFERENCE:** Draft introduction as shared with the Office of Revenue Analysis on  
June 29, 2017

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**Conclusion**

Funds are sufficient in fiscal year 2017 and the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the resolution.

**Background**

The resolution approves rules from the Department of Health (DOH) that increase<sup>1</sup> the number of medical marijuana dispensaries registered to operate in the District from six to seven. The new dispensary can be registered in Ward 7 or in Ward 8.

**Financial Plan Impact**

Funds are sufficient in fiscal year 2017 and the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the resolution. DOH has sufficient resources to register and enforce laws and regulations applicable to a new medical marijuana dispensary in either Ward 7 or Ward 8.

Medical marijuana dispensaries must pay<sup>2</sup> application fees, renewal fees, licensing fees and employee registration fees each year to operate in the District of Columbia. These fees are collected in a special purpose revenue fund to cover audit and inspection costs incurred by DOH. One additional dispensary will generate \$5,000 of non-tax revenue in fiscal year 2017 and \$13,950 in non-tax revenue each year starting in fiscal year 2018. In total the new dispensary will generate

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<sup>1</sup> By amending Chapter 52 of Title 22-C of the District of Columbia Municipal Regulations.

<sup>2</sup> D.C. Municipal Regulations Title 22-C, § 5103.

The Honorable Phil Mendelson

FIS: "Medical Marijuana Authorized Number of Dispensaries Increase Rulemaking Approval Resolution of 2017," Draft introduction as shared with the Office of Revenue Analysis on June 29, 2017

\$60,800 in non-tax revenue over fiscal year 2018 through fiscal year 2021 budget and financial plan.

Medical Marijuana Authorized Number of Dispensaries Increase Rulemaking Approval Resolution of 2017						
Estimated Non-Tax Revenue						
	FY17	FY18	FY19	FY20	FY21	Total
Initial Application Fee <sup>(a)</sup>	\$5,000	\$0	\$0	\$0	\$0	\$0
Annual Permit Fee	\$0	\$10,000	\$10,000	\$10,000	\$10,000	\$40,000
Annual Renewal Application Fee	\$0	\$3,000	\$3,000	\$3,000	\$3,000	\$12,000
Annual Director Fee	\$0	\$200	\$200	\$200	\$200	\$800
Annual Employee Registration Fee <sup>(b)</sup>	\$0	\$450	\$450	\$450	\$450	\$1,800
Annual Manager's registration <sup>(c)</sup>	\$0	\$300	\$300	\$300	\$300	\$1,200
Total	\$5,000	\$13,950	\$13,950	\$13,950	\$13,950	\$60,800

Table Notes:

(a). Assumes at least one applicant pays the application fee.

(b). Assumes that six employees pay the \$75 registration fee.

(c). Assumes that two managers pay the \$150 manager registration fee.



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



Legal Counsel Division

**MEMORANDUM**

**TO:** Lolita S. Alston  
Director  
Office of Legislative Support

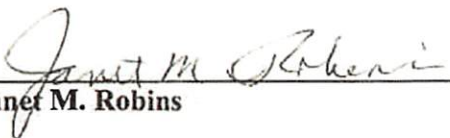
**FROM:** Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

**DATE:** June 29, 2017

**SUBJECT:** Legal Sufficiency Review of the, "Medical Marijuana Authorized  
Number of Dispensaries Increase Rulemaking Approval Resolution of  
2017"  
(AR-17-383)

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**This is to certify that** this Office has reviewed the above-referenced Resolution and found it legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

  
Janet M. Robins