

OFFICE OF THE SECRETARY

2020 FEB -6 PM 2: 37



MURIEL BOWSER
MAYOR

FEB 6 2020

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

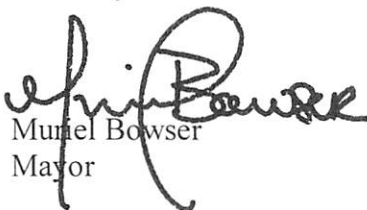
Dear Chairman Mendelson:

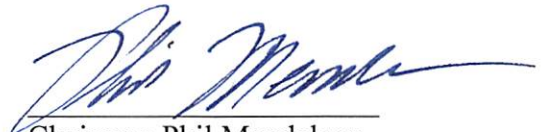
Pursuant to D.C. Official Code § 7-1671.13(b), I have enclosed for Council consideration the "Medical Marijuana Change of Ownership or Location Rulemaking Approval Resolution of 2020." This resolution would approve rulemaking to amend Chapter 50 (Registration, Licensing, and Enforcement of Cultivation Centers and Dispensaries) and Chapter 55 (Registration Changes) of Title 22-C of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to implement the provisions of the Medical Marijuana Omnibus Amendment Act of 2016, which allows medical marijuana dispensaries, cultivation centers, and testing laboratories to change ownership, and to change location subject to review by the affected Advisory Neighborhood Commission.

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

Sincerely,


Muriel Bowser
Mayor


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 to implement the provisions of the Medical Marijuana Omnibus Amendment Act of 2016, allowing a medical marijuana dispensary, cultivation center, or testing laboratory to change ownership, or to change location subject to review by the affected Advisory Neighborhood Commissions.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the “Medical Marijuana Change of Ownership or Location Rulemaking Approval Resolution of 2020.”

Sec. 2. Pursuant to the Legalization of Marijuana for Medical Treatment Initiative of 1999 (Act), effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360), as amended by section 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 § 7-1671.13(b)), the Council approves the proposed rulemaking adopted by the Department of Health amending chapters 50 and 55 of Title 22-C of the District of Columbia Municipal Regulations to implement the provisions of the Medical Marijuana Omnibus Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-209; D.C. Official Code § 7-1671.01 *et seq.*) allowing medical marijuana dispensaries, cultivation

1 centers, and testing laboratories to change ownership, or to change location subject to
2 review by the affected Advisory Neighborhood Commissions.

3 Sec. 3. Fiscal impact.

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

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

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

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2018 Repl.)), Section 4902(d) of the Department of Health Functions Clarifications Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(d) (2018 Repl.)), Sections 2(f)(6) and 2(i)(6) of the Medical Marijuana Omnibus Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-209; D.C. Official Code § 7-1671.06(g-2) and (g-3) (2018 Repl.)), the Medical Marijuana Relocation Emergency Amendment Act of 2018, effective February 6, 2019 (D.C. Act 22-645; 66 DCR 2052), and Mayor's Order 2011-71 dated April 13, 2011, hereby gives notice of her intent to adopt the following amendments to Subtitle C (Medical Marijuana) of Title 22 (Health) of 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 the Council's approval of the rulemaking. Pursuant to D.C. Official Code § 7-1671.13(b), if the Council does not disapprove of the rules during the thirty (30) day period of review, the rules shall be deemed approved.

The amendments will, within Subtitle C of Title 22 of the DCMR, amend Chapters 50 (Registration, Licensing, and Enforcement of Cultivation Centers and Dispensaries), and 55 (Registration Changes). The purpose of this rulemaking is to implement the provisions of the Medical Marijuana Omnibus Amendment Act of 2016, which allow a medical marijuana dispensary or cultivation center to change ownership or location.

Chapter 50 (Registration, Licensing, and Enforcement of Cultivation Centers and Dispensaries) of subtitle C (Medical Marijuana) of Subtitle C of Title 22 of the DCMR is amended as follows:

The title of Chapter 50 is amended to read: Registration, Licensing, and Enforcement of Cultivation Centers, Dispensaries, and Testing Laboratories.

Section 5003 (Non-Transferability of Locations and Ownership) is amended as follows:

Subsections 5003.3 and 5003.6 are repealed in their entirety, without substitution.

Chapter 55 (Registration Changes) of subtitle C (Medical Marijuana) of Title 22 of the DCMR is amended as follows:

Section 5501 (Individual Ownership, Partnership, Limited Liability Company or Partnership, and Corporate Changes) is repealed in its entirety and the following inserted in its place, to read as follows:

5501 INDIVIDUAL OWNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR PARTNERSHIP, AND CORPORATE CHANGES

- 5501.1 If there is a change in corporate officers, directors, or other persons, owning or controlling one percent (1%) or more, but less than fifty percent (50%), of the common stock of a corporate registration for a medical marijuana dispensary, cultivation center, or testing laboratory, the corporation shall submit to the Department, within fifteen (15) calendar days of the change, the minutes or other instrument giving the names and addresses of any new officer, director, or person owning or controlling any percentage of the stock.
- 5501.2 If there is a change in the ownership of an individual ownership, partnership, or limited liability company or partnership, resulting in a change of ownership of one percent (1%) or more, but less than fifty percent (50%), of the total ownership interest of the business entity's registration for a medical marijuana dispensary, cultivation center, or testing laboratory, the individual owner, partnership, or limited liability company or partnership members shall submit to the Department in a timely manner, but no later than fifteen (15) calendar days after the change has occurred, the instruments reflecting the change in ownership interests.
- 5501.3 Within fifteen (15) calendar days of the changes set forth in § 5501.1 and § 5501.2, the individual owner, partnership, limited liability company or partnership, or corporation shall submit to the Department any data pertaining to the personal and business history of any new officer, director, stockholder, member, general or limited partner, or other person that the Department may require, and each new person shall apply for a registration as required under this subtitle.
- 5501.4 Each individual seeking to own or control interest of at least one percent (1%) in a partnership, limited liability company or partnership, or corporation shall pass a criminal background check and pay the applicable registration fee.
- 5501.5 If the proposed transfer pertains to a medical marijuana dispensary registration, the proposed transferee(s) shall not own or control the interest of one percent (1%) or more in another medical marijuana dispensary registered to operate in the District of Columbia or that has been deemed eligible to operate in the District of Columbia.
- 5501.6 The proposed transferee(s) shall not operate the dispensary, cultivation center, or testing laboratory until they have received a registration issued by the Department.

A new section 5502 is added to read as follows:

5502 TRANSFER OF EQUAL OR MAJORITY OWNERSHIP OR CONTROL

- 5502.1 At least thirty (30) days before executing an agreement that will result in the transfer of ownership or control of fifty percent (50%) or more of the ownership

interest or common stock of a registration for a medical marijuana dispensary, cultivation center, or testing laboratory, the current registrant shall submit to the Department an application for a transfer of equal or majority ownership or control.

5502.2 A registrant shall not complete the sale or transfer of fifty percent (50%) or more of its ownership or control of a registration for a medical marijuana dispensary, cultivation center, or testing laboratory until the registrant has received written approval from the Department of the sale or transfer.

5502.3 If a registrant transfers ownership or control of fifty percent (50%) or more of its ownership or control of a registration for a medical marijuana dispensary, cultivation center, or testing laboratory without Department approval, the registrant's registration, or authorization to apply for a registration, shall automatically be deemed void and shall be surrendered to the Department upon demand.

5502.4 To apply for a transfer of fifty percent (50%) or more of its ownership or control of a registration for a medical marijuana dispensary, cultivation center, or testing laboratory, a registrant shall complete a Department of Health application form and provide the following:

- (a) The legal name or trade name of the business and a copy of the trade name registration, if applicable;
- (b) The name, address, date of birth, and social security number of the individual owner, partners, limited liability company or partnership member, principal officers, directors, or shareholders (no P.O. Boxes will be accepted);
- (c) The Certificate of Good Standing for the partnership, limited liability company or partnership, or corporation, issued within thirty (30) days of the date of submission of the application;
- (d) A Basic Business Registration from the Department of Consumer and Regulatory Affairs with a General Business registration endorsement;
- (e) A valid zoning determination letter for the premises issued in the name of the new owner;
- (f) Evidence that the applicant has entered into a bona fide agreement with the owner of the building to lease, purchase, or occupy the premises;
- (g) A signed and notarized Physician Affidavit Form, if applicable;
- (h) A signed and notarized Acknowledgment and Attestation form;

- (i) A detailed description of the proposed operations plan and closure plan;
- (j) A detailed description of the proposed business plan and services to be offered;
- (k) A proposed staffing plan (if there are no changes, to the existing staffing plan it may be resubmitted);
- (l) The proposed security plan (if there are no changes, the existing security plan may be resubmitted);
- (m) The proposed product safety, quality control, and labeling plan (if there are no changes to the existing product safety, quality control, and labeling plan, it may be resubmitted);
- (n) The proposed recordkeeping and inventory tracking plan (if there are no changes to the existing recordkeeping and inventory tracking plan, it may be resubmitted);
- (o) The proposed environmental plan, if applicable (if there are no changes to the existing environmental plan, it may be resubmitted);
- (p) Information on the source of funds used to acquire the ownership or control interests of the dispensary, cultivation center, or testing laboratory;
- (q) A copy of both the Bill of Sale and the Purchase and Sale Agreement between the former registrant and new applicant; and
- (r) A notarized and signed copy of the Transfer of Registration Affidavit Form.

5502.5 The proposed transferee(s) shall pass a criminal background check.

5502.6 If the proposed transfer pertains to a medical marijuana dispensary registration, the proposed transferee(s) shall not own or control the interest of one percent (1%) or more in another medical marijuana dispensary registered to operate in the District of Columbia or that has been deemed eligible to operate in the District of Columbia.

5502.7 The proposed transferee(s) shall not operate the dispensary, cultivation center, or testing laboratory until they have received a registration issued by the Department.

A new section 5503 is added to read as follows:

5503 CHANGE OF LOCATION OR EXPANSION

- 5503.1 At least thirty (30) days before executing an agreement that will result in the change of location or expansion of a dispensary, cultivation center, or testing laboratory, the registrant shall submit to the Department an application for a change of location or expansion.
- 5503.2 An application for change of location of a dispensary, cultivation center, or testing laboratory shall be subject to ANC review, and shall not be approved if the relocation would result in more than two (2) dispensaries or six (6) cultivation centers being registered to operate within a single election ward.
- 5503.3 A registrant shall not relocate or expand until the registrant has received written approval from the Department to relocate or expand.
- 5503.4 If a registrant relocates or expands without Department approval, the registrant's registration, or authorization to apply for a registration, shall automatically be deemed void and shall be surrendered to the Department upon demand.
- 5503.5 To apply for a change of location or to expand into adjacent property, a registrant shall complete a Department of Health application form and provide the following:
- (a) The legal business name, including trade name, if applicable, and current address of the dispensary, cultivation center, or testing laboratory;
 - (b) The contact person's name, address, email address, telephone number, and facsimile number;
 - (c) The address of the proposed location;
 - (d) The proposed date for closing the current location, if relocating;
 - (e) The proposed date of relocation or expansion;
 - (f) The proposed date of opening the new location or expanded location;
 - (g) All required ownership information including the name, title, address, and telephone number of the individual owner, partner(s), corporate officer(s), or members;
 - (h) A valid zoning determination letter for the proposed location;
 - (i) A certified surveyor's report detailing the proximity of the proposed location to the nearest public or private preschool, primary or secondary

school or recreation center;

- (j) Evidence that the registrant has entered into a bona fide agreement with the owner of the building to lease, purchase, or occupy the new location or expanded premises;
- (k) The site plan for the proposed location or expanded location;
- (l) A detailed security plan for the proposed location or expanded location;
- (m) A detailed description of the proposed operations plan and closure plan for the proposed location;
- (n) A detailed description of the proposed business plan and services to be offered for the proposed location or expanded location;
- (o) A detailed description of the suitability of the proposed location or expanded location;
- (p) A proposed staffing plan;
- (q) The proposed product safety, quality control, and labeling plan;
- (r) The proposed recordkeeping and inventory tracking plan;
- (s) The environmental plan for the proposed location or expanded location, if applicable;
- (t) A signed and notarized Physician Affidavit Form, if applicable; and
- (u) A signed and notarized Acknowledgment and Attestation form.

5503.6 As part of the review of an application for a change of location, the Director shall give written notice through the mail of the application to all ANCs in the affected ward, pursuant to the requirements set forth in § 5107 of this subtitle.

5503.7 Pursuant to § 5109 of this subtitle, the comments timely submitted by an ANC located in the affected ward for consideration shall relate to the ANC's concerns or support regarding the proposed location including but not limited to:

- (a) The potential adverse impact of the proposed location to the neighborhood;
- (b) An overconcentration or lack of cultivation centers or dispensaries in the affected ward; and

- (c) Its proximity to substance abuse treatment centers, day care centers, and halfway houses.

5503.8 The timely comments submitted by an ANC located in the affected ward, shall be reviewed by the Director in accordance with D.C. Official Code § 1-309.10(d) (2017).

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., 6th 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, (202) 442-5977.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



LEGAL COUNSEL DIVISION

MEMORANDUM

TO: Alana Intrieri
Executive Director
Office of Policy and Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: June 28, 2019

SUBJECT: Legal Sufficiency Review of Proposed Resolution, the "Medical Marijuana Change of Ownership or Location Rulemaking Approval Resolution of 2019," Regarding Proposed Rulemaking to Amend Chapters 50 and 55 of Title 22-C (Medical Marijuana) of the District of Columbia Municipal Regulations
(AR-19-282)

This is to Certify that this Office has reviewed the above-referenced proposed resolution, and has found it to be legally sufficient. If you have questions regarding this certification, please do not hesitate to contact me at 724-5524.


Brian K. Flowers