

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council passes Resolution 22-76, Defending Access to Women’s Health Care Services Emergency Declaration Resolution of 2017
- Office of the State Superintendent of Education announces availability of the FY 2017 Charter Schools Program Dissemination Grants
- Department of Energy and Environment seeks entities to participate in the Lead Poisoning Prevention Outreach and Collaboration Project
- Department of For-Hire Vehicles invites For-Hire Vehicle companies to participate in innovative pilot projects for improving transportation in the District
- Department of Housing and Community Development solicits offers for developing District-owned properties in Anacostia
- Office of the Deputy Mayor for Planning and Economic Development seeks a developer for the Eastern Branch Boys and Girls Club Site
- District Department of Transportation announces availability of the Highway Safety Behavioral Grants

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 *et seq.* (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-501 *et seq.* (2012 Repl.).

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MAYOR

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ADMINISTRATOR

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COUNCIL OF THE DISTRICT OF COLUMBIA

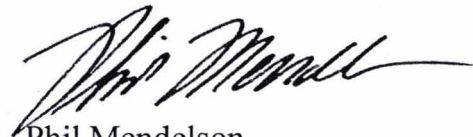
NOTICE

D.C. LAW 21-225

**"Notice in Case of Emergency Amendment
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-615 on first and second readings November 15, 2016, and December 6, 2016, respectively. Following the signature of the Mayor on January 6, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-597 and was published in the January 13, 2017 edition of the D.C. Register (Vol. 64, page 154). Act 21-597 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-597 is now D.C. Law 21-225, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 21-226

**"William Jackson Way Designation
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-469 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 13, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-610 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 886). Act 21-610 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-610 is now D.C. Law 21-226, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

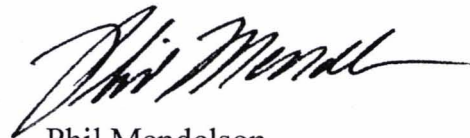
NOTICE

D.C. LAW 21-227

**"Closing of a Public Alley in Square 126,
S.O. 14-17521, Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-586 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 13, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-611 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 868). Act 21-611 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-611 is now D.C. Law 21-227, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 21-228

**"Washington Metropolitan Area Transit Authority
Compact Amendment Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-635 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 13, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-612 and was published in the February 17, 2017 edition of the D.C. Register (Vol. 64, page 1583). Act 21-612 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-612 is now D.C. Law 21-228, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

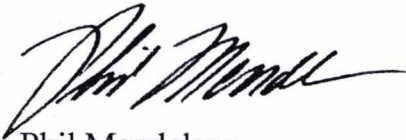
NOTICE

D.C. LAW 21-229

**"Extension of Time to Dispose of the Strand
Theater Amendment Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-658 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 13, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-613 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 870). Act 21-613 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-613 is now D.C. Law 21-229, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 21-230

**"Janice Wade McCree Way Designation
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-788 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 13, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-614 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 872). Act 21-614 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-614 is now D.C. Law 21-230, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

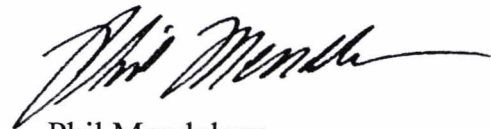
NOTICE

D.C. LAW 21-231

**"Closing of a Public Alley in Square 453,
S.O. 14-17847, Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-447 on first and second readings December 6, 2016, and December 20, 2016, respectively. The legislation was deemed approved without the signature of the Mayor on January 20, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-615 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 874). Act 21-615 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-615 is now D.C. Law 21-231, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

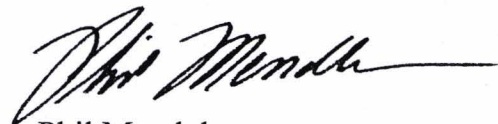
NOTICE

D.C. LAW 21-232

**"Council Independent Authority Clarification
Amendment Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-581 on first and second readings November 15, 2016, and December 6, 2016, respectively. Following the signature of the Mayor on January 24, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-616 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 876). Act 21-616 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-616 is now D.C. Law 21-232, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

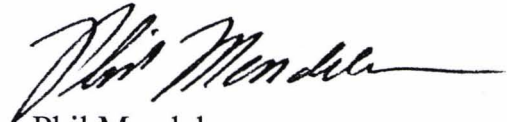
NOTICE

D.C. LAW 21-233

**"Skyland Town Center Amendment
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-854 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 23, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-617 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 881). Act 21-617 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-617 is now D.C. Law 21-233, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 21-234

**"Medical Marijuana Dispensary Temporary Amendment
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-953 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 24, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-618 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 883). Act 21-618 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-618 is now D.C. Law 21-234, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 21-235

**"Campaign Finance Reform and Transparency
Temporary Amendment Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-964 on first and second readings December 6, 2016, and December 20, 2016, respectively. The legislation was deemed approved without the signature of the Mayor on January 26, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-619 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 885). Act 21-619 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-619 is now D.C. Law 21-235, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

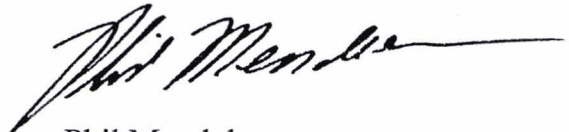
NOTICE

D.C. LAW 21-236

**"Certified Business Enterprise Bonding
Liability Amendment Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-863 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 25, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-643 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 937). Act 21-643 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-643 is now D.C. Law 21-236, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 21-237

**"Healthy Public Buildings Assessment
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-881 on first and second readings December 6, 2016, and December 20, 2016, respectively. Following the signature of the Mayor on January 25, 2017, as required by Section 404(e) of the Charter, the bill became Act 21-644 and was published in the February 3, 2017 edition of the D.C. Register (Vol. 64, page 939). Act 21-644 was transmitted to Congress on February 17, 2017 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-644 is now D.C. Law 21-237, effective April 1, 2017.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

February 17, 21, 22, 23, 24, 27, 28

March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

ENROLLED ORIGINAL

A RESOLUTION

22-50

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve multiyear Contract No. DCHT-2016-C-0017 with FEi.com, Inc. d/b/a FEi Systems to provide a new clinical case management system to the Department of Health Care Finance.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. DCHT-2016-C-0017 with FEi.com, Inc. d/b/a FEi Systems Approval Emergency Declaration Resolution of 2017”.

Sec. 2. (a) The Office of Contracting and Procurement, on behalf of the Department of Health Care Finance, proposes to enter into a multiyear contract with FEi.com, Inc. d/b/a FEi Systems to provide a new clinical case management system.

(b) The estimated price under this multiyear contract with FEi.com, Inc. d/b/a FEi Systems is \$3,811,052.94.

(c) Approval is necessary to allow the District to continue to receive the benefit of these vital services without interruption from FEi.com, Inc. d/b/a FEi Systems.

(d) These critical services can only be obtained through an award of the multiyear contract with FEi.com, Inc. d/b/a FEi Systems.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. DCHT-2016-C-0017 with FEi.com, Inc. d/b/a FEi Systems Emergency Approval Resolution of 2017 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-51

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To approve, on an emergency basis, multiyear Contract No. DCHT-2016-C-0017 with FEi.com, Inc. d/b/a FEi Systems to provide a new clinical case management system to the Department of Health Care Finance.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. DCHT-2016-C-0017 with FEi.com, Inc. d/b/a FEi Systems Emergency Approval Resolution of 2017".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves multiyear Contract No. DCHT-2016-C-0017 with FEi.com, Inc. d/b/a FEi Systems to provide a new clinical case management system to the Department of Health Care Finance, in the amount of \$3,811.052.94.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-52

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. 8, 9, and 10 to Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC with Community Connections, Inc. to provide supported rehabilitative residence services and to authorize payment for the goods and services received and to be received under the contract modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC with Community Connections, Inc. Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists a need to approve Modification Nos. 8, 9, and 10 to Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC with Community Connections, Inc. to provide supported rehabilitative residence services and to authorize payment for the goods and services received and to be received under Modification Nos. 8, 9, and 10.

(b) By Modification No. 8, dated December 12, 2016, the Office of Contracting and Procurement (“OCP”), on behalf of the Department of Behavioral Health exercised option year 2 of Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC to provide supported rehabilitative residence services for the period from December 22, 2016, through December 21, 2017, in the amount of \$950,000.

(c) By Modification No. 9, dated December 12, 2016, the OCP increased the amount for option year 2 by \$23.08.

(d) Modification No. 10 is now necessary to increase the total not-to-exceed amount for option year 2 to \$2,853,978.80.

(e) Council approval is necessary because these modifications increase the contract by more than \$1 million during a 12-month period.

(f) Approval is necessary to allow the continuation of these vital services. Without this approval, Community Connections, Inc. cannot be paid for goods and services provided in excess of \$1 million for the contract period from December 22, 2016, through December 21, 2017.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC with Community

ENROLLED ORIGINAL

Connections, Inc. Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-53

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. 7, 8, and 9 to Contract No. RM-15-RFP-SRR-104-LSI-BY4-SC with Life Stride, Inc. to provide supported rehabilitative residence services and to authorize payment for the goods and services received and to be received under the contract modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. RM-15-RFP-SRR-104-LSI-BY4-SC with Life Stride, Inc. Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists a need to approve Modification Nos. 7, 8, and 9 to Contract No. RM-15-RFP-SRR-104-LSI-BY4-SC with Life Stride, Inc. to provide supported rehabilitative residence services and to authorize payment for the goods and services received and to be received under Modification Nos. 7, 8, and 9.

(b) By Modification No. 7, dated December 16, 2016, the Office of Contracting and Procurement (“OCP”), on behalf of the Department of Behavioral Health exercised partial option year 2 of Contract No. RM-15-RFP-SRR-104-LSI-BY4-SC to provide supported rehabilitative residence services for the period from December 22, 2016, through September 30, 2017, in the amount of \$950,000.

(c) By Modification No. 8, dated December 27, 2016, the OCP decreased the amount for partial option year 2 by \$795.20 to \$949,204.80 and revised the partial option year 2 period from December 22, 2016, through May 16, 2017.

(d) Modification No. 9 is now necessary to exercise the remaining of option year 2 through December 21, 2017, and increase the total not to exceed amount for option year 2 to \$2,389,377.60.

(e) Council approval is necessary because these modifications increase the contract by more than \$1 million during a 12-month period.

(f) Approval is necessary to allow the continuation of these vital services. Without this approval, Life Stride, Inc. cannot be paid for goods and services provided in excess of \$1 million for the contract period from December 22, 2016, through December 21, 2017.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. RM-15-RFP-SRR-104-LSI-BY4-SC with Life Stride, Inc. Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-54

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. 1, 2, and 3 and proposed Modification No. 5 to Contract No. CW40717 with Sharcon Hospitality of DC III, LLC d/b/a Holiday Inn Express Hotel and Suites to provide accommodations for homeless families, and to authorize payment for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. CW40717 Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists a need to approve Modification Nos. 1, 2, and 3 and proposed Modification No. 5 to Contract No. CW40717 with Sharcon Hospitality of DC III, LLC d/b/a Holiday Inn Express Hotel and Suites to provide accommodations for homeless families, and to authorize payment for the goods and services received and to be received under the modifications.

(b) By Modification No. 1, dated November 25, 2016, the Office of Contracting and Procurement (“OCP”), on behalf of the Department of Human Services, exercised Option Year 1 of Contract No. CW40717 for the period from November 25, 2016, through November 24, 2017, in the not-to-exceed amount of \$301,645.

(c) By Modification No. 2, dated February 1, 2017, OCP increased the total not-to-exceed amount for Option Year 1 to \$980,517.

(d) By Modification No. 3, dated March 23, 2017, OCP corrected an administrative error in Modification Nos. 1 and 2 that occurred when the not-to-exceed amount for the option was recorded as \$301,645 when it should have been \$334,405.

(e) Modification No. 5 is now necessary to increase the total not-to-exceed amount for Option Year 1 from \$980,517 to \$4,558,078.

(f) Council approval is necessary since these modifications increase the contract by more than \$1 million during a 12-month period.

(g) Approval is necessary to allow the continuation of these vital services. Without this approval, Sharcon Hospitality of DC III, LLC d/b/a Holiday Inn Express Hotel and Suites cannot be paid for goods and services provided in excess of \$1 million for the contract period November 25, 2016, through November 24, 2017.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW40717 Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-55

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. M017, M018A, and M019 and proposed Modification No. M020 to Human Care Agreement No. DCRL-2013-H-0039E with Lutheran Social Services of the National Capital Area to provide case management and traditional, family-based foster care services for children and youth, and to authorize payment for the services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Human Care Agreement No. DCRL-2013-H-0039E Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists a need to approve Modification Nos. M017, M018A, and M019 and proposed Modification No. M020 to Human Care Agreement No. DCRL-2013-H-0039E with Lutheran Social Services of the National Capital Area to provide case management and traditional, family-based foster care services for children and youth, and to authorize payment for the services received and to be received under the modifications.

(b) By Modification No. M017, dated December 30, 2016, the Child and Family Services Agency (“CFSA”) exercised the first partial option for Option Year 3 of Human Care Agreement No. DCRL-2013-H-0039E in the not-to-exceed amount of \$146,551.08 for the period from January 1, 2017, through January 31, 2017.

(c) By Modification No. M018, dated January 18, 2017, CFSA exercised a second partial option for Option Year 3 in the not-to-exceed amount of \$757,899.81 for the period from February 1, 2017, through June 30, 2017, and revised the price schedule for the entire term of Option Year 3 to increase the per diem rates for case management, decrease the administrative allowance, and increase the cost reimbursement.

(d) By Modification No. M018A, dated January 31, 2017, CFSA retained the not-to-exceed amount of the second partial option as \$757,899.81, and issued a revised price schedule, which separated the prices for January 2017 from the prices for the period from February 1, 2017, through December 31, 2017, because each period has different rates.

(e) By Modification No. M019, dated January 31, 2017, CFSA replaced Modification No. M018 with Modification No. M018A and corrected an administrative error in Modification No. M017 that occurred when the not-to-exceed amount for the exercise of the first partial

ENROLLED ORIGINAL

option, in Modification No. M017, was recorded as \$146,551.08 when it should have been \$148,107.75 for the period from January 1, 2017, through January 31, 2017.

(f) By Modification No. M020, CFSA proposes to exercise the remainder of Option Year 3 for the period from July 1, 2017, through December 31, 2017, in the not-to-exceed amount of \$929,690.44, making the total not-to-exceed amount for Option Year 3 \$1,835,698 for the period from January 1, 2017, through December 31, 2017.

(g) Council approval is necessary because these modifications increase the total contract amount to more than \$1 million during a 12-month period.

(h) Approval is necessary to allow the continuation of these vital services. Without this approval, Lutheran Social Services of the National Capital cannot be paid for services provided in excess of \$1 million.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Human Care Agreement No. DCRL-2013-H-0039E Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-56

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. 24, 25, 26, and 27 and proposed Modification No. 28 to Human Care Agreement No. DCRL-2013-H-0039F with Family Matters of Greater Washington to provide case management and traditional and therapeutic, family-based foster care services for children and youth, and to authorize payment for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Human Care Agreement No. DCRL-2013-H-0039F Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists a need to approve Modification Nos. 24, 25, 26, and 27 and proposed Modification No. 28 to Human Care Agreement No. DCRL-2013-H-0039F with Family Matters of Greater Washington to provide case management and traditional and therapeutic, family-based foster care services for children and youth, and to authorize payment for the goods and services received and to be received under the modifications.

(b) By Modification No. 25, dated December 30, 2016, and Modification No. 24, dated January 18, 2017, the Child and Family Services Agency (“CFSA”) exercised a partial option for Option Year 3 of Human Care Agreement No. DCRL-2013-H0039F for the period from January 1, 2017, through January 31, 2017, in the not-to-exceed amount of \$257,720.76.

(c) By Modification No. 26, dated February 1, 2017, CFSA corrected an administrative error in Modification No. 25 that occurred when the not-to-exceed amount for the exercise of the first partial option, in Modification No. 25, was recorded as \$257,720.76, when it should have been \$241,332.12.

(d) By Modification No. 27, dated February 1, 2017, CFSA exercised a second partial option in the not-to-exceed amount of \$737,316.06 for the period from February 1, 2017, through April 25, 2017.

(e) Modification No. 28 is now necessary to increase the not-to-exceed amount by \$2,194,393.03, resulting in a total not-to-exceed amount for Option Year 3 of \$3,173,041.21 for the period from January 1, 2017, through December 31, 2017.

(f) Council approval is necessary because these modifications increase the contract by more than \$1 million during a 12-month period.

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(g) Approval is necessary to allow the continuation of these vital services. Without this approval, Family Matters of Greater Washington cannot be paid for goods and services provided in excess of \$1 million for the contract period from January 1, 2017, through December 31, 2017.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Human Care Agreement No. DCRL-2013-H-0039F Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-57

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Contract No. DCRL-2015-R-0100 and proposed Task Order No. T-0001 with Deloitte Consulting, LLP for maintenance, operation, and enhancements to the Child and Family Services Agency’s web-based Statewide Automated Child Welfare System, known as FACES.NET, and to authorize payment for the services received and to be received under the contract and the task order.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. DCRL-2015-R-0100 and Task Order No. T-0001 Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists a need to approve Contract No. DCRL-2015-R-0100 and proposed Task Order No. T-0001 with Deloitte Consulting, LLP for maintenance, operation, and enhancements to the Child and Family Services Agency’s (“CFSA”) web-based Statewide Automated Child Welfare System, known as FACES.NET, and to authorize payment for the services received and to be received under the contract and the proposed task order.

(b) On August 16, 2016, CFSA awarded Contract No. DCRL-2015-R-0100 to Deloitte Consulting, LLP in the amount of \$979,999.92 to provide maintenance and operations services for FACES.NET.

(c) The contract included a forward pricing agreement under which CFSA could issue and fund task orders, as needed, to design, develop, and implement enhancements to FACES.NET.

(d) CFSA now proposes to issue Task Order No. T-0001 in the amount of \$158,545 for enhancements, thereby increasing the base year amount of the contract from \$979,999.92 to \$1,138,544.92.

(e) Council approval is necessary because this proposed task order increases the total contract amount to more than \$1 million during a 12-month period.

(f) Approval is necessary to allow the continuation of these vital services. Without this approval, Deloitte Consulting, LLP cannot be paid for services provided in excess of \$1 million.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the

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Contract No. DCRL-2015-R-0100 and Task Order No. T-0001 Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-58

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. 1 and 3 to Contract No. CW39267 with Advance Network Consulting, Inc. to provide Mission Oriented Business Integrated Services and to authorize payment in the not-to-exceed amount of \$10,000,000 for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. CW39267 Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists a need to approve Modification Nos. 1 and 3 to Contract No. CW39267 with Advance Network Consulting, Inc. to provide Mission Oriented Business Integrated Services and to authorize payment in the not-to-exceed amount of \$10,000,000 for the goods and services received and to be received under the modifications.

(b) By Modification No. 1, dated October 5, 2016, the Office of Contracting and Procurement exercised option year one of Contract No. CW39267 to provide Mission Oriented Business Integrated Services for the period from October 18, 2016 to October 17, 2017 in the not-to-exceed amount of \$950,000.

(c) Modification No. 3 is now necessary to increase the not-to-exceed amount for option year one, and all subsequent option years, to \$10,000,000.00.

(d) Council approval is required by section 451(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(b)), because these modifications increase the value of the contract in an amount greater than \$1 million during a 12-month period.

(e) Approval is necessary to allow the continuation of these vital services. Without this approval, Advance Network Consulting, Inc. cannot be paid for goods and services provided in excess of \$1 million during the period October 18, 2016 to October 17, 2017.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW39267 Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-59

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification No. 8 to Contract No. CFOPD-13-C-011 with MuniServices, LLC, to continue to provide secondary tax collection services to the Office of the Chief Financial Officer on behalf of the Office of Tax and Revenue, and to authorize payment for services to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. CFOPD-13-C-011 Extension Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists an immediate need to approve Modification No. 8 to Contract No. CFOPD-13-C-011 with MuniServices, LLC, to continue to provide secondary tax collection services to the Office of the Chief Financial Officer on behalf of the Office of Tax and Revenue and to authorize payment for services to be received under the contract.

(b) The Office of the Chief Financial Officer executed Modification Nos. 4 through 7 to Contract No. CFOPD-13-C-011, which partially exercised the first multiyear contract option for the period of July 1, 2016, through April 30, 2017, at no cost.

(c) Proposed Modification No. 8 will exercise the remaining 13 months of the multiyear option, from May 1, 2017, through June 30, 2018, in the amount of \$2 million.

(d) Council approval is necessary because proposed Modification No. 8 is in excess of \$1 million and for a multiyear term. Council approval is further necessary to allow the continuation of these vital services and MuniServices, LLC, to continue to perform under the contract.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. CFOPD-13-C-011 Extension Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-60

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve multiyear Contract No. DOEE-2016-C-0002 with Vermont Energy Investment Corporation to provide performance-based services in administering sustainable energy programs in the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. DOEE-2016-C-0002 Approval Emergency Declaration Resolution of 2017".

Sec. 2. (a) The Office of the Deputy Mayor for Planning and Economic Development, on behalf of the Department of Energy and Environment, proposes to enter into multiyear Contract No. DOEE-2016-C-0002 with Vermont Energy Investment Corporation ("VEIC"), the designated Sustainable Energy Utility, to provide all services and equipment necessary to perform and administer required sustainable energy programs in the District.

(b) The contract price under this multiyear contract with VEIC is in the not-to-exceed amount of \$95 million.

(c) Approval is necessary to allow the District to receive the benefit of these vital services in a timely manner from VEIC.

(d) These critical services can only be obtained through an award of the multiyear contract to VEIC.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. DOEE-2016-C-0002 Emergency Approval Resolution of 2017 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-61

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To approve, on an emergency basis, multiyear Contract No. DOEE-2016-C-0002 with the Vermont Energy Investment Corporation to provide performance-based services in administering sustainable energy programs in the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. DOEE-2016-C-0002 Emergency Approval Resolution of 2017”.

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), the Council approves multiyear Contract No. DOEE-2016-C-0002 with Vermont Energy Investment Corporation to provide performance-based services in administering sustainable energy programs in the District in the not-to-exceed amount of \$95 million.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer 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. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-62

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve multiyear Contract No. CW49533 with Biohabitats, Inc. to design and install Low Impact Development stormwater retrofits in the Carter Barron Amphitheater and Legg Mason Tennis Stadium.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CW49533 Approval Emergency Declaration Resolution of 2017".

Sec. 2. (a) The Office of Contracting and Procurement, on behalf of the Department of Energy and Environment, proposes to enter into multiyear Contract No. CW49533 with Biohabitats, Inc. to design and install Low Impact Development stormwater retrofits for Carter Barron Amphitheater and Legg Mason Tennis Stadium.

(b) The contract price under this multiyear contract with Biohabitats, Inc. is \$1,581,905.34.

(c) Council approval is necessary because the period of performance for Contract No. CW49533 is 3 years.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract CW49533 Emergency Approval Resolution of 2017 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-63

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To approve, on an emergency basis, multiyear Contract No. CW49533 with Biohabitats, Inc. to design and install Low Impact Development stormwater retrofits in the Carter Barron Amphitheater and Legg Mason Tennis Stadium.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. CW49533 Emergency Approval Resolution of 2017”.

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), the Council approves Contract No. CW49533 to design and install Low Impact Development stormwater retrofits in the Carter Barron Amphitheater and Legg Mason Stadium in the amount of \$1,581,905.34.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer 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. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-64

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. 001 and 002 to Contract No. DCAM-15-CS-0097I with Kramer Consulting Services PC for construction management services, and to authorize payment in the not-to-exceed amount of \$2.5 million for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. DCAM-15-CS-0097I Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists an immediate need to approve Modification Nos. 001 and 002 to Contract No. DCAM-15-CS-0097I with Kramer Consulting Services PC for construction management services, and to authorize payment in the not-to-exceed amount of \$2.5 million for the goods and services received and to be received under the modifications.

(b) On November 16, 2016, the Department of General Services issued Modification No. 001, which fully exercised Option Year 1 with a minimum order amount of \$250 and a not-to-exceed amount of \$950,000. Modification No. 001 did not require Council approval because the expenditures under the modification were not in excess of \$1 million during a 12-month period.

(c) Modification No. 002 increases the not-to-exceed amount of Option Year 1 from \$950,000 to the not-to-exceed amount of \$2.5 million, in order to ensure that the contract amount for Option Year 1 will be adequate to meet the increased needs for construction management services at District government facilities.

(d) Council approval is now required, pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), because the expenditures under the modifications are in excess of \$1 million during a 12-month period.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. DCAM-15-CS-0097I Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-65

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification No. 001 and proposed Modification No. 002 to Contract No. DCAM-15-CS-0097E with McKissack & McKissack of Washington, Inc. for construction management services, and to authorize payment in the not-to-exceed amount of \$2.5 million for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. DCAM-15-CS-0097E Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists an immediate need to approve Modification No. 001 and proposed Modification No. 002 to Contract No. DCAM-15-CS-0097E with McKissack & McKissack of Washington, Inc. for construction management services, and to authorize payment in the not-to-exceed amount of \$2.5 million for Option Year 1.

(b) On November 16, 2016, the Department of General Services issued Modification No. 001 which fully exercised Option Year 1 with a minimum order amount of \$250 and a not-to-exceed amount of \$950,000. Modification No. 001 did not require Council approval because the expenditures under the modification was not in excess of \$1 million during a 12-month period.

(c) Proposed Modification No. 002 would increase the not-to-exceed amount of Option Year 1 from \$950,000 to the not-to-exceed amount of \$2.5 million, in order to ensure that the contract amount for Option Year 1 will be adequate to meet the increased needs for construction management services at District government facilities.

(d) Council approval is now required, pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), because the expenditures under the modifications are in excess of \$1 million during a 12-month period.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. DCAM-15-CS-0097E Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-66

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. 001 and 002 to Contract No. DCAM-15-CS-0097K with Brailsford & Dunlavey, Inc. for construction management services, and to authorize payment in the not-to-exceed amount of \$2.5 million for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. DCAM-15-CS-0097K Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists an immediate need to approve Modification Nos. 001 and 002 to Contract No. DCAM-15-CS-0097K with Brailsford & Dunlavey, Inc. for construction management services, and to authorize payment in the not-to-exceed amount of \$2.5 million for Option Year 1.

(b) On November 16, 2016, the Department of General Services issued Modification No. 001, which fully exercised Option Year 1 with a minimum order amount of \$250 and a not-to-exceed amount of \$950,000. Modification No. 001 did not require Council approval because the expenditures under the modification were not in excess of \$1 million during a 12-month period.

(c) Modification No. 002 increases the not-to-exceed amount of Option Year 1 to \$2.5 million, in order to ensure that the contract amount for Option Year 1 will be adequate to meet the increased needs for construction management services at District government facilities.

(d) Council approval is now required, pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), because the expenditures under the modifications are in excess of \$1 million during a 12-month period.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. DCAM-15-CS-0097K Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-67

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Change Order Nos. 5 and 6 to Contract No. DCAM-15-CS-0112 with District Veterans Contracting, Inc. for the restoration of the exterior of the Wilson Building, and to authorize payment in the aggregate amount of \$1,529,107.84 for the goods and services received and to be received under the change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Order Nos. 5 and 6 to Contract No. DCAM-15-CS-0112 Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists an immediate need to approve Change Order Nos. 5 and 6 to Contract No. DCAM-15-CS-0112 for the restoration of the exterior of the Wilson Building, and to authorize payment in the aggregate amount of \$1,529,107.84 for the goods and services received and to be received under the change orders.

(b) The underlying contract was previously approved by the Council (CA21-0238). Change Order Nos. 1, 2, 3, and 4 were also previously approved by the Council (B21-0731 and PR21-0697). On September 15, 2016, the Department of General Services issued Change Order No. 5 in the amount of \$989,900. Change Order No. 5 did not require Council approval because the value of the change order was not in excess of \$1 million.

(c) Change Order No. 6, in the amount of \$539,207.84, will cause the aggregate value of the change orders issued, after Council’s last approval of the underlying contract and of Change Order Nos. 1, 2, 3, and 4, to be in excess of \$1 million.

(d) Approval of Change Order Nos. 5 and 6, pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), is necessary to compensate District Veterans Contracting, Inc. for work completed and to be completed pursuant to the change orders.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Order Nos. 5 and 6 to Contract No. DCAM-15-CS-0112 Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-68

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to approve Modification Nos. 11 and 12 and proposed Modification No. 14 to Contract No. CW20202 with Lucky Dog, LLC to provide solid waste hauling and disposal services, and to authorize payment for the services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. CW20202 Approval and Payment Authorization Emergency Declaration Resolution of 2017”.

Sec. 2. (a) There exists a need to approve Modification Nos. 11 and 12 and proposed Modification No. 14 to Contract No. CW20202 with Lucky Dog, LLC to provide solid waste and disposal services, and to authorize payment for the services received and to be received under the modifications.

(b) By Modification No. 9, dated May 31, 2016, the Office of Contracting and Procurement (“OCP”), on behalf of the Department of Public Works, exercised Option Year 1 of Contract No. CW20202 to provide solid waste and disposal services for the period from June 1, 2016, through May 31, 2017, in the estimated amount of \$2.19 million. The Council approved Modification No. 9.

(c) By Modification No. 11, dated February 22, 2017, OCP further modified Contract No. CW20202, increasing the estimated amount for Option Year 1 by \$780,000.

(d) By Modification No. 12, dated March 21, 2017, OCP further modified Contract No. CW20202, increasing the estimated amount for Option Year 1 by \$200,000.

(e) Proposed Modification No. 14 is now necessary to increase the contract amount by \$70,000 to the new estimated amount of \$3.24 million for Option Year 1.

(f) Council approval is necessary because Modification Nos. 11 and 12 and proposed Modification No. 14 cumulatively increase the contract by more than \$1 million during a 12-month period.

(g) Approval is necessary to allow the continuation of these vital services. Without this approval, Lucky Dog, LLC cannot be paid for services provided in excess of \$2.19 million for the contract period June 1, 2016, through May 31, 2017.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW20202 Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-69

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To approve an agreement to enter into a long-term subsidy contract for 15 years in support of the District's Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2016-LRSP-01L with The Langdon Apartments Affordable Company LLC for program units at Langdon Apartments, located at 2613-2615 Bladensburg Road, N.E.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2016-LRSP-01L Approval Resolution of 2017".

Sec. 2. (a) In 2007, the District passed Title II of the Fiscal Year 2007 Budget Support Act of 2006 ("BSA") to provide funding for affordable housing for extremely low-income households in the District. The passage of the BSA created the Local Rent Supplement Program ("LRSP"), a program designed to provide affordable housing and supportive services to extremely low-income District residents, including those who are homeless or in need of supportive services, such as elderly individuals or those with disabilities, through project-based, tenant-based and sponsored-based LRSP affordable housing units. The BSA provided for the District of Columbia Housing Authority ("DCHA") to administer the LRSP on behalf of the District.

(b) In 2016, DCHA participated in a Request for Proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 11 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for families making less than half of the area's median income, as well as the chronically homeless. Upon approval of the contract by the Council, DCHA will enter into a Long Term Subsidy Contract ("LTSC") with the selected housing providers under the LRSP for housing services.

(c) There exists an immediate need to approve the LTSC with The Langdon Apartments Affordable Company, LLC, under the LRSP in order to provide long-term affordable housing units for extremely low-income households in the District for units located at 2613-2615 Bladensburg Road, N.E.

(d) The legislation to approve the contract will authorize a LTSC between DCHA and The Langdon Apartments Affordable Company, LLC, with respect to the payment of rental

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subsidy, and allows the owner to lease the rehabilitated units at Langdon Apartments and house extremely low-income households with incomes at 30% or less of the area median income.

Sec. 3. Pursuant to section 451 of the District of Columbia House Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves the LTSC with The Langdon Apartments Affordable Company, LLC, to provide operating subsidy in support of 5 affordable housing units in an initial not-to-exceed amount of \$69,360 annually.

Sec. 4. Transmittal.

The Council shall transmit a copy of this copy of this resolution, upon its adoption, to the District of Columbia Housing Authority and the Mayor.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as 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 resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-70

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To confirm the appointment of Ms. Stephanie Spears to the Commission on Fashion Arts and Events.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Fashion Arts and Events Stephanie Spears Confirmation Resolution of 2017”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Stephanie Spears
3627 13th Street, N.W.
Washington, D.C. 20010
(Ward 1)

as a member of the Commission on Fashion Arts and Events, established by section 2 of the Commission on Fashion Arts and Events Establishment Act of 2008, effective April 15, 2008 (D.C. Law 17-148; D.C. Official Code § 3-651), replacing Jennifer Fisher, for a term to end April 15, 2017, and for a full term to end April 15, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-71

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To confirm the appointment of Mr. Jason Anthony to the Commission on Fashion Arts and Events.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Fashion Arts and Events Jason Anthony Confirmation Resolution of 2017”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Jason Anthony
201 I Street, N.E., Unit #515
Washington, D.C. 20002
(Ward 6)

as a member of the Commission on Fashion Arts and Events, established by section 2 of the Commission on Fashion Arts and Events Establishment Act of 2008, effective April 15, 2008 (D.C. Law 17-148; D.C. Official Code § 3-651), replacing Marcus Williams, for a term to end April 15, 2020.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-72

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To confirm the appointment of Mr. Donald L. Isaac, Sr. to the Alcoholic Beverage Control Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Alcoholic Beverage Control Board Donald L. Isaac Sr. Confirmation Resolution of 2017”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Donald L. Isaac, Sr.
3333 M Street, S.E.
Washington, D.C. 20032
(Ward 7)

as a member of the Alcoholic Beverage Control Board, established by D.C. Official Code § 25-201, replacing Herman Jones, for a term to end May 7, 2019.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-73

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To confirm the appointment of Mr. Lawrence Green to the Commission on the Arts and Humanities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on the Arts and Humanities Lawrence Green Confirmation Resolution of 2017”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Lawrence Green
2256 S Street, S.E.
Washington, D.C. 20020
(Ward 8)

as a member of the Commission on the Arts and Humanities, established by section 4 of the Commission on the Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-203), replacing Antoinette Ford, for a term to end June 30, 2019.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-74

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To confirm the reappointment of Ms. Denise Rolark Barnes to the Washington Convention and Sports Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Washington Convention and Sports Authority Board of Directors Denise Rolark Barnes Confirmation Resolution of 2017”.

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Ms. Denise Rolark Barnes
114 Mississippi Avenue, S.E.
Washington, D.C. 20032
(Ward 8)

as a public member with an expertise in business finance to the Washington Convention and Sports Authority Board of Directors, established by section 205 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.05), to serve for a term to end May 16, 2020.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-75

I IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To confirm the appointment of Ms. LaRuby Z. May to the Not-For-Profit Hospital Corporation Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Not-For-Profit Hospital Corporation Board of Directors LaRuby Z. May Confirmation Resolution of 2017”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. LaRuby Z. May, J.D.
3216 11th Place, S.E.
Washington, D.C. 20032
(Ward 8)

as a member of the Not-For-Profit Hospital Corporation Board of Directors, pursuant to section 5115 of the Not-For-Profit Hospital Corporation Establishment Amendment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 44-951.04), replacing Jaqueline Bowens, for a term to end July 9, 2017, and for a full term to end July 9, 2020.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-76

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 4, 2017

To declare the existence of an emergency with respect to the need to amend the Women's Health and Cancer Rights Federal Law Conformity Act of 2000 to require insurers to cover preventive services for women without cost-sharing.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Defending Access to Women's Health Care Services Emergency Declaration Resolution of 2017".

Sec. 2. (a) On March 23, 2010, the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 141; 42 U.S.C. § 18001 *et seq.*) ("ACA") was signed into law by President Barack Obama. The ACA and its implementing regulations, guidelines, and recommendations prohibit cost-sharing for a variety of women's preventive health care services, including breast and cervical cancer screening; breastfeeding services and supplies; screening for gestational diabetes; screening and counseling for sexually transmitted infections and HIV; the full-range of FDA-approved contraceptives; well-woman visits; and screening and counseling for interpersonal and domestic violence.

(b) Since the ACA's passage, 9.5 million previously uninsured women have health care coverage, and 55 million women now have access to preventive health care.

(c) The rates of teen births, abortions, and unintended pregnancies have dropped. The teen birth rate in the United States is at a record low of below 25 births per 1,000 teen females. Abortion rates dropped 26% between 2008 and 2014. The proportion of pregnancies in the United States that were unintended dropped 6% between 2006 and 2013.

(d) The law's prohibition on cost-sharing for contraceptives affords women of reproductive age better access to effective forms of contraception, such as intrauterine devices ("IUDs"), patches, and oral contraceptive pills. Use of long-acting reversible contraceptives, such as the IUD, more than tripled between 2007 and 2012, and since the November 2016 general election, data shows a 19% increase in the number of doctor's visits related to IUDs.

(e) Insurers must also offer breast-feeding support and equipment, such as pumps, without cost-sharing. Studies have shown that employers recoup \$2 to \$3 for every dollar they spend on workplace lactation resources due to greater employee productivity, less turnover, and less time mothers must take off to care for sick children.

(f) Access to preventive services saves women and District taxpayers money and improves health outcomes. For example, in 2013, women in the United States saved nearly \$1.4

ENROLLED ORIGINAL

billion in out-of-pocket costs for oral contraception, and the most recently available data from 2010 indicated that the District government spent \$13.3 million on unintended pregnancies.

(g) If the ACA is repealed, many low- and moderate-income women, young women, and women of color in the District may have to choose between making ends meet and staying healthy. By enshrining the ACA's covered women's preventive services in District law, this emergency legislation will ensure that, in the event that the ACA or its implementing regulations, recommendations, or guidelines are repealed or rescinded, women in the District of Columbia will not face a gap in coverage.

(h) Similar permanent legislation, the Defending Access to Women's Health Care Services Amendment Act of 2017, as introduced on February 7, 2017 (Bill 21-106), is pending before the Council, and the Committee on Health held a public hearing on the bill on March 20, 2017.

(i) The Council has historically expanded access to women's health care services, including contraception. In passing this emergency legislation, it will continue those efforts, notwithstanding threats by the federal government that jeopardize the health of District women.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Defending Access to Women's Health Care Services Emergency Amendment Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE OF INTENT TO ACT ON NEW LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at www.dccouncil.us.

COUNCIL OF THE DISTRICT OF COLUMBIA

PROPOSED LEGISLATION

BILLS

B22-237	<p>Parking Ticket Waiver Act of 2017</p> <p>Intro. 4-4-17 by Chairman Mendelson and Councilmember McDuffie and referred to the Committee on Transportation and the Environment</p>
<hr/>	
B22-238	<p>Retirement Savings Incentive Amendment Act of 2017</p> <p>Intro. 4-4-17 by Councilmember Evans and referred to the Committee of the Whole with comments from the Committee on Labor and Workforce Development</p>
<hr/>	
B22-241	<p>Fiscal Year 2018 Federal Portion Budget Request Act of 2017</p> <p>Intro. 4-4-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole</p>
<hr/>	
B22-242	<p>Fiscal Year 2018 Local Budget Act of 2017</p> <p>Intro. 4-4-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole</p>
<hr/>	

B22-244 Fiscal Year 2018 Budget Support Act of 2017

Intro. 4-4-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole with comments from standing committees on specific subtitles.

PROPOSED RESOLUTIONS

PR22-235 Sense of the Council in Support of a Ward 2 College Basketball Championship Resolution of 2017

Intro. 4-4-17 by Councilmember Evans and referred to the Committee on Finance and Revenue

PR22-236 Board of Occupational Therapy Anthony Roberson Confirmation Resolution of 2017

Intro. 4-4-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR22-237 Apprenticeship Council Quenton Horton Confirmation Resolution of 2017

Intro. 4-4-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development

PR22-238 Apprenticeship Council Ioannis Xanthos Confirmation Resolution of 2017

Intro. 4-4-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development

PR22-243 Commission on Health Equity R. Daniel Okonkwo Appointment Resolution of 2017

Intro. 4-7-17 by Chairman Mendelson and referred to the Committee of the Whole

PR22-244 Commission on Health Equity Alicia Wilson Appointment Resolution of 2017

Intro. 4-7-17 by Chairman Mendelson and referred to the Committee of the Whole

PR22-245 Commission on Health Equity Christopher Selhorst Appointment Resolution of 2017

Intro. 4-7-17 by Chairman Mendelson and referred to the Committee of the Whole

PR22-246 Commission on Health Equity M. Jermane Bond Appointment Resolution of 2017

Intro. 4-7-17 by Chairman Mendelson and referred to the Committee of the Whole

**Council of the District of Columbia
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**

ANNOUNCES A PUBLIC HEARING ON

B22-0001 - GEORGIA AVENUE RETAIL PRIORITY AREA AMENDMENT ACT OF 2017

**B22-0115 - H STREET, N.E., RETAIL PRIORITY AREA CLARIFICATION
AMENDMENT ACT OF 2017**

**B22-0236 - DC MAIN STREETS PUBLIC SPACE PERMIT FEE WAIVER
AMENDMENT ACT OF 2017**

**Monday, May 8, 2017, 1:00 p.m.
Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Monday, May 8, 2017, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development, will hold a public hearing on Bill 22-0001, the Georgia Avenue Retail Priority Area Amendment Act of 2016”; Bill 22-0115, the “H Street, N.E., Retail Priority Clarification Amendment Act of 2017”; and Bill 22-0236, the “DC Main Streets Public Space Permit Fee Waiver Amendment Act of 2017”. The hearing will be held in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 1:00 p.m.

The stated purpose of B22-0001 is to expand the boundaries of the Ward 4 Georgia Avenue Retail Priority Area.

The stated purpose of B22-0115 is to clarify the location of businesses eligible to receive retail development project grants within the H Street, N.E., Retail Priority Area; and to modify the boundaries of the Bladensburg Road, N.E., Retail Priority Area.

The stated purpose of B22-0236 is to waive public space fees for active and accredited DC Main Streets programs.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Demetris Cheatham at (202) 294-0152, or via e-mail at DCheatham@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) **by close of business, May 4, 2017.** Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring **15, single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically to DCheatham@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on May 12, 2017.**

**Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Hearing**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

REVISED

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCES A PUBLIC HEARING ON:

**Bill 22-42, the “First Responder Income Tax Exclusion Amendment Act of 2017”
Bill 22-43, the “East End Commercial Real Property Tax Rate Reduction Amendment Act of 2017”
Bill 22-202, the “East End Grocery and Retail Incentive Program Tax Abatement Act of 2017”
Bill 22-218, the “Relieve High Unemployment Tax Incentives Act of 2017”**

Monday, May 8, 2017

10:00 a.m.

**Room 120 - John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing to be held on Wednesday, May 8, 2017 at 10:00 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 22-42, the “First Responder Income Tax Exclusion Amendment Act of 2017” amends Title 47-1803.02(a) of the District of Columbia Official Code to exclude from gross income the amount received as annual salary by eligible District of Columbia government first responders.

Bill 22-43, the “East End Commercial Real Property Tax Rate Reduction Amendment Act of 2017” amends Chapter 8 of Title 47 of the District of Columbia Official Code to lower the real property tax rate for Class 2 Properties located East of the Anacostia River.

Bill 22-202, the “East End Grocery and Retail Incentive Program Tax Abatement Act of 2017” amends Chapter 46 of Title 47 of the D.C. Official Code to waive deed recordation, real property, personal property, corporate franchise (including combined reporting), and sales taxes for eligible sites in Ward 7 and 8.

Bill 22-218, the “Relieve High Unemployment Tax Incentives Act of 2017” will provide for real and personal property tax abatement, tax credits and other incentives for the purposes of attracting new and retaining existing businesses to help relieve high unemployment in wards and/or areas in the District of Columbia.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 9:00 a.m. on Friday, May 5, 2017. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004. This notice is being revised to change the date, time and location of the hearing.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: April 7, 2017
Protest Petition Deadline: May 22, 2017
Roll Call Hearing Date: June 5, 2017

License No.: ABRA-102866
Licensee: Basque Bar, LLC
Trade Name: **Anxo Cidery & Pintxos Bar
License Class: Retailer’s Class “C” Tavern
Address: 711 Kennedy Street, N.W.
Contact: Rachel Fitz: (410) 375-1630

WARD 4 ANC 4D SMD 4D01

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on June 5, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Summer Garden Endorsement with 10 seats.

CURRENT HOURS OF OPERATION ON PREMISE

Sunday through Thursday 7 am – 2 am, Friday and Saturday 7 am – 3 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION ON PREMISE

Sunday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

CURRENT HOURS OF WINE PUB ENDORSEMENT

Sunday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

HOURS OF OPERATION IN THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 7 am – 2 am, Friday and Saturday 7 am – 3 **pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION IN THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**CORRECTION

Placard Posting Date: April 7, 2017
Protest Petition Deadline: May 22, 2017
Roll Call Hearing Date: June 5, 2017

License No.: ABRA-102866
Licensee: Basque Bar, LLC
Trade Name: **Anxo Cidery & Tasting Room
License Class: Retailer's Class "C" Tavern
Address: 711 Kennedy Street, N.W.
Contact: Rachel Fitz: (410) 375-1630

WARD 4 ANC 4D SMD 4D01

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on June 5, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Summer Garden Endorsement with 10 seats.

CURRENT HOURS OF OPERATION ON PREMISE

Sunday through Thursday 7 am - 2 am, Friday and Saturday 7 am - 3 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION ON PREMISE

Sunday through Thursday 8 am - 2 am, Friday and Saturday 8 am - 3 am

CURRENT HOURS OF WINE PUB ENDORSEMENT

Sunday through Thursday 8 am - 2 am, Friday and Saturday 8 am - 3 am

HOURS OF OPERATION IN THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 7 am - 2 am, Friday and Saturday 7 am - 3 **am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION IN THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 8 am - 2 am, Friday and Saturday 8 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: April 14, 2017
Protest Petition Deadline: May 30, 2017
Roll Call Hearing Date: June 12, 2017

License No.: ABRA-060477
Licensee: Aqua NYA, LLC
Trade Name: Aqua Restaurant
License Class: Retailer's Class "C" Tavern
Address: 1818 New York Avenue, N.E.
Contact: Emanuel Mpras: (703) 642-9042

WARD 5 ANC 5C SMD 5C04

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on June 12, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Class Change from a Retailer "C" Tavern to a Retailer "C" Nightclub.

HOURS OF OPERATION; ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION; AND LIVE ENTERTAINMENT INSIDE PREMISES AND FOR SUMMER GARDEN

Sunday through Thursday 10:00 am - 2:00 am, Friday and Saturday 10:00 am - 3:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: April 14, 2017
Protest Petition Deadline: May 30, 2017
Roll Call Hearing Date: June 12, 2017
Protest Hearing Date: August 2, 2017

License No.: ABRA-105977
Licensee: Yegna Restaurant and Lounge, Inc.
Trade Name: Asefu's Palace
License Class: Retailer's Class "C" Tavern
Address: 1920 9th Street, N.W.
Contact: Asefu Alemayehu: 202-421-5868

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on June 12, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing date is scheduled on August 2, 2017 at 1:30 p.m.

NATURE OF OPERATION

A new Tavern serving Ethiopian cuisine. Seating capacity of 38 inside. Total Occupancy Load of 58. Summer Garden with 24 seats. The Tavern will include Entertainment, Dancing and Cover Charge.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISE

Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISE

Sunday through Thursday 6 pm – 2 am, Friday and Saturday 6 pm – 3 am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION ON THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 10 am – 12 am, Friday and Saturday 10 am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: April 14, 2017
Protest Petition Deadline: May 30 2017
Roll Call Hearing Date: June 12, 2017

License No.: ABRA-089616
Licensee: ANB 623, LLC
Trade Name: Beuchert's Saloon
License Class: Retailer's Class "C" Restaurant
Address: 623 Pennsylvania Avenue, S.E.
Contact: Nathan Berger: (202) 733-1384

WARD 6

ANC 6B

SMD 6B02

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on June 12, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Sidewalk Cafe Endorsement with seating for 4 patrons.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION ON PREMISE

Sunday 9 am - 2 am, Monday through Thursday 11 am - 2 am, Friday 11 am - 3 am, and Saturday 9 am - 3 am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SUMMER GARDEN

Sunday 9 am - 12 am, Monday through Friday 11 am - 12 am, and Saturday 9 am - 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: April 14, 2017
Protest Petition Date: May 30, 2017
Roll Call Hearing Date: June 12, 2017
Protest Hearing Date: August 2, 2017

License No.: ABRA-105750
Licensee: Hill Country DC, LLC
Trade Name: Hill Country Summer Barbecue at the National Building Museum
License Class: Retailer's Class "C" Tavern
Address: 401 F Street, N.W.
Contact: Stephen J. O'Brien 202-625-7700

WARD 2C

ANC 2C

SMD 2C03

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on June 12, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **August 2, 2017 at 1:30 p.m.**

NATURE OF OPERATION

New "C" Tavern with 250 seats and a Total Occupancy Load of 499. Applicant has requested a Summer Garden endorsement and Entertainment Endorsement to include Dancing.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE**SALES/SERVICE/CONSUMPTION FOR PREMISES AND SUMMER GARDEN**

Sunday through Saturday 12 pm – 11 pm

HOURS OF ENTERTAINMENT FOR PREMISES AND SUMMER GARDEN

Sunday through Thursday 12 pm – 9 pm, Friday and Saturday 12 pm – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: April 14, 2017
Protest Petition Deadline: May 30, 2017
Roll Call Hearing Date: June 12, 2017

License No.: ABRA-103708
Licensee: Pho 12th Street LLC
Trade Name: Pho 12th Street
License Class: Retailer’s Class “C” Restaurant
Address: 3740 12th Street, N.E.
Contact: Danny Dao: 301-219-1759

WARD 5

ANC 5B

SMD 5B05

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on June 12, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009.** Petition and/or request to appear before the Board must be filed on or before the Petition Date

NATURE OF SUBSTANTIAL CHANGE

Applicant requests to expand occupancy from 34 Seats to 46 Seats.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday through Thursday 10 am – 10 pm, Friday and Saturday 10 am – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: April 14, 2017
Protest Petition Deadline: May 30, 2017
Roll Call Hearing Date: June 12, 2017
Protest Hearing Date: August 2, 2017

License No.: ABRA-105729
Licensee: Silver Cathedral Commons, LLC
Trade Name: Silver
License Class: Retailer's Class "C" Restaurant
Address: 3404 Wisconsin Avenue, N.W.
Contact: Andrew Kline, Esq.: 202-686-7600

WARD 3

ANC 3C

SMD 3C06

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on June 12, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **August 2, 2017 at 4:30 p.m.**

NATURE OF OPERATION

A new Restaurant serving traditional American food. Seating capacity of 174 inside. Total Occupancy Load of 205. Sidewalk Café with 60 seats. Entertainment Endorsement for inside and outdoor sidewalk café.

HOURS OF OPERATION INSIDE PREMISES AND ON THE OUTDOOR SIDEWALK CAFÉ

Sunday through Thursday 7 am – 12 am, Friday and Saturday 7 am – 2 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION INSIDE PREMISES AND ON THE OUTDOOR SIDEWALK CAFÉ

Sunday through Thursday 8 am – 12 am, Friday and Saturday 8 am – 2 am

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES AND ON THE OUTDOOR SIDEWALK CAFÉ

Thursday through Saturday 4 pm – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
**4/14/2017

**READVERTISEMENT

Notice is hereby given that:

License Number: ABRA-010284

License Class/Type: C Restaurant

Applicant: Adams Morgan Spaghetti Gardens Inc.

Trade Name: Spaghetti Garden Brass Monkey Peyote Roxanne

ANC: 1C07

Has applied for the renewal of an alcoholic beverage license at the premises:

2317 - 2319 18th ST NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

**5/30/2017

A HEARING WILL BE HELD ON:

**6/12/2017

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

ENDORSEMENT(S): Dancing Entertainment Sidewalk Cafe Summer Garden

Table with 4 columns: Days, Hours of Operation, Hours of Sales/Service, Hours of Entertainment. Rows for Sunday through Saturday.

Hours Of Sidewalk Cafe Operation

Hours of Summer Garden Operation

Table with 2 columns: Hours Of Sidewalk Cafe Operation, Hours of Summer Garden Operation. Rows for Sunday through Saturday.

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
**3/24/2017

****RESCIND**

Notice is hereby given that:

License Number: ABRA-010284

License Class/Type: C Restaurant

Applicant: Adams Morgan Spaghetti Gardens Inc.

Trade Name: Spaghetti Garden Brass Monkey Peyote Roxanne

ANC: 1C07

Has applied for the renewal of an alcoholic beverage license at the premises:

2317 - 2319 18th ST NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

****5/8/2017**

A HEARING WILL BE HELD ON:

****5/22/2017**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

ENDORSEMENT(S): Dancing Entertainment Sidewalk Cafe Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	12 pm - 2 am	12 pm - 1:45 am	8 pm - 1:30 am
Monday:	12 pm - 2 am	12 pm - 1:45 am	8 pm - 1:30 am
Tuesday:	12 pm - 2 am	12 pm - 1:45 am	8 pm - 1:30 am
Wednesday:	12 pm - 2 am	12 pm - 1:45 am	8 pm - 1:30 am
Thursday:	12 pm - 2 am	12 pm - 1:45 am	8 pm - 1:30 am
Friday:	12 pm - 3 am	12 pm - 2:45 am	8 pm - 2:30 am
Saturday:	12 pm - 3 am	12 pm - 2:45 am	8 pm - 2:30 am

Hours Of Sidewalk Cafe Operation

Hours of Summer Garden Operation

Sunday:	* -	* -
Monday:	See -	See -
Tuesday:	Voluntary -	Voluntary -
Wednesday:	Agreement -	Agreement -
Thursday:	for -	for -
Friday:	Hours -	Hours -
Saturday:	-	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**NOTICE OF PUBLIC HEARING**

Placard Posting Date: April 14, 2017
Protest Petition Date: May 30, 2017
Roll Call Hearing Date: June 12, 2017

License No.: ABRA-100018
Licensee: Madras Bar, LLC
Trade Name: The Airedale
License Class: Retailer's Class "C" Tavern
Address: 3605 14th Street, N.W.
Contact: Benjamin Jordan: 202-722-1272

WARD 1

ANC 1A

SMD 1A04

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on June 12, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Change of Hours of Operation, Alcoholic Beverage Sales, and Live Entertainment inside Premise.

CURRENT HOURS OF OPERATION FOR INSIDE PREMISES

Sunday 7:00 am to 12:00 am, Monday 10:00 am to 2:00 am, Tuesday through Friday 12:00 pm to 2:00 am, Saturday 7:00 am to 2:00 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR INSIDE PREMISES

Sunday 8:00 am to 12:00 am, Monday through Friday 12:00 pm to 2:00 am, Saturday 8:00 am to 2:00 am

CURRENT HOURS OF LIVE ENTERTAINMENT

Sunday 6:00 pm to 12:00 am, Monday through Friday 6:00 pm to 1:00 am, Saturday 6:00 pm to 2:00 am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR INSIDE PREMISES

Sunday through Saturday 8:00 am to 3:00 am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6:00 pm to 12:00 am, Friday and Saturday 6:00 pm to 3:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**NOTICE OF PUBLIC HEARING**

Placard Posting Date: April 14, 2017
Protest Petition Date: May 30, 2017
Roll Call Hearing Date: June 12, 2017
Protest Hearing Date: August 2, 2017

License No.: ABRA-105867
Licensee: 80 M Street SE Tenant, LLC
Trade Name: WeWork
License Class: Retailer's Class "C" Tavern
Address: 80 M Street, S.E.
Contact: Stephen J. O'Brien: 202-625-7700

WARD 6

ANC 6D

SMD 6D02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on June 12, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **August 2, 2017 at 4:30 p.m.**

NATURE OF OPERATION

New "C" Tavern with 100 seats and a Total Occupancy Load of 100. Request made for an Entertainment Endorsement as well.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Monday through Saturday 11 am – 10 pm

HOURS OF LIVE ENTERTAINMENT

Monday through Saturday 11 am – 9 pm

DEPARTMENT OF HEALTH (DOH)
Community Health Administration (CHA)
Chronic Disease Division
and the
Preventive Health and Health Services
Block Grant Advisory Committee
Announce

2017 ANNUAL PUBLIC HEARING

The District of Columbia Department of Health (DOH), Community Health Administration (CHA), Chronic Disease Division and the Preventive Health and Health Services Block Grant Advisory Committee are conducting a hearing to solicit testimonies on focus areas and strategies to address priority health needs and funding gaps in the District of Columbia. Information gathered through the hearing process will be used by the Preventive Health and Health Services Block Grant Advisory Committee to finalize the Preventive Health and Health Services Block Grant (PHHSBG) Work Plan for the project year 2017-2018.

The PHHSBG can be used by the Department of Health to help address gaps in funding support for chronic disease prevention efforts and capacity. It is also a PHHSBG requirement that specific allocations be designated to sexual assault prevention efforts.

The Public Hearing will be held on Thursday, April 20, 2017 at the Department of Health, 899 North Capitol Street, N.E., Washington, DC 20002 in room 306 from 4:00pm to 7:30pm.

Electronic copies of testimonies are requested by 12:00 Noon on April 19, 2017. Please submit testimonies via email to laverne.jones@dc.gov and include your name, address, telephone number and the organization name (when applicable). **Written testimonies should be no longer than two pages and single-spaced. All oral presentations are limited to five minutes.** Testimonies should include: 1) description of a public health problem or priority area within the purview of DOH, 2) data as evidence, 3) potential strategies to address the problem, and 4) a description of how funds could be used to address the problem on a system or population level.

Please contact LaVerne Jones at (202) 442-9151 or email LaVerne.Jones@dc.gov and/or Angela Carole at (202) 442-8984 or email angela.carole@dc.gov.

Parking is available under the building at a cost. There is limited neighborhood parking. Check WMATA <http://www.wmata.com/> for other transportation options. The nearest Metro stops are Union Station and NoMa/Gallaudet U Station.

**DISTRICT OF COLUMBIA
PUBLIC CHARTER SCHOOL BOARD**

NOTIFICATION OF PUBLIC HEARING

The District of Columbia Public Charter School Board (“DC PCSB”) hereby gives notice, of DC PCSB’s intent to hold a public hearing on Wednesday, April 12, 2017 at 7:00pm to discuss LAYC Career Academy Public Charter School (“LAYCCA PCS”).

The public hearing will take place at LAYCCA PCS located at 3047 15th St NW, Washington, DC 20009.

If you have any questions, please contact Rashida Tyler, Senior Manager of School Quality and Accountability at 202-328-2660 or rtyler@dcpcsb.org.

If you would like to submit public comment, please call 202-328-2660 or email public.comment@dcpcsb.org.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, MAY 31, 2017
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

TIME: 9:30 A.M.

WARD SIX

19492
ANC 6E **Application of Henry M. Hunt**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, and the rear yard requirements of Subtitle E § 306.1, and a special exception from the penthouse setback requirements of Subtitle C § 1502.1, to construct a one-story rear addition with roof deck to an existing one-family dwelling in the RF-1 Zone at premises 1529 8th Street, N.W. (Square 421, Lot 60).

WARD SIX

19497
ANC 6B **Application of Elizabeth Riordan and Katherine Kimpel**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the nonconforming structure requirements of Subtitle C § 202, the lot occupancy requirements of Subtitle E § 304.1, and the rear yard requirements of Subtitle E § 306.1, to construct a third-story addition to an existing one-family dwelling in the RF-1 Zone at premises 1506 E Street, S.E. (Square 1075, Lot 47)

WARD SIX

19499
ANC 6B **Application of Brad and Rebecca Kenemuth**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, and a special exception from the accessory building height requirement of Subtitle E § 5002.1, to construct a two-story accessory structure (garage and second-floor living space) in the RF-1 Zone at premises 120 6th Street, S.E. (Square 870, Lot 813).

BZA PUBLIC HEARING NOTICE

MAY 31, 2017

PAGE NO. 2

WARD TWO

19500 **Application of Middle East Institute**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exceptions from the off-street parking requirement of Subtitle C § 701.5, and the long-term bicycle parking space requirement of Subtitle C § 802.3, to construct a rear addition to an existing three-story building in the MU-15 Zone at premise 1761-1763 N Street, N.W. (Square 158, Lot 70).

ANC 2B

WARD FIVE

THIS CASE WAS POSTPONED FROM DECEMBER 7, 2016, FEBRUARY 22, 2017, AND APRIL 26, 2017 AT THE APPLICANT'S REQUEST, THEN ADMINISTRATIVELY RESCHEDULED TO MAY 31, 2017:

19377 **Application of The Boundary Companies and The Missionary Society of St Paul the Apostle**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the theoretical lot subdivision requirements of Subtitle C § 305.1, and the RA-new residential use requirements of Subtitle U § 421, and a variance from the vehicular access requirements of Subtitle C § 305.3, to construct 12 new buildings with approximately 78 one-family dwelling units in the RA-1 Zone at premises 3015 4th Street N.E. (Square 3648, Lot 915).

ANC 5E

WARD TWO

THIS CASE HAS BEEN POSTPONED FROM THE HEARING OF APRIL 12, 2017 TO THE HEARING OF MAY 31, 2017 AT THE APPLICANT'S REQUEST:

19459 **Application of Andrew Phillips**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the penthouse requirements of Subtitle C § 1500.3(b), to permit roof access for the upper unit of an existing flat in the RF-1 Zone at premises 930 P Street N.W. (Square 366, Lot 817).

ANC 2F

WARD THREE

THIS CASE WAS ADMINISTRATIVELY RESCHEDULED FROM JANUARY 25, 2017 TO THE PUBLIC HEARING OF FEBRUARY 8, 2017, THEN POSTPONED TO APRIL 12, 2017 AND MAY 31, 2017 AT THE APPELLANT'S REQUEST:

19407 **Appeal of The Friends of Lowell Street**, pursuant to 11 DCMR §§ 3100 and 3101, from a June 30, 2016 decision by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue S.O. 16-04562, for the subdivision of a lot in the R-1-A District at premises 4925 Lowell Street N.W. (Square 1436, Lot 34).

ANC-3D

BZA PUBLIC HEARING NOTICE
MAY 31, 2017
PAGE NO. 3

PLEASE NOTE:

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person’s interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.*** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning’s website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

**Note that party status is not permitted in Foreign Missions cases.*

Do you need assistance to participate?

Amharic

ለመከተሉ ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓሚ)

ካስፈለገዎት እባክዎን ከስብሰባው አገልግሎት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-

0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件

Zelalem.Hill@dc.gov。这些是免费提供的服务。

French

Avez-vous besoin d’assistance pour pouvoir participer ? Si vous avez besoin d’aménagements spéciaux ou d’une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au

BZA PUBLIC HEARING NOTICE

MAY 31, 2017

PAGE NO. 4

(202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

Korean

참여하시는데 도움이 필요하세요?

특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish

¿Necesita ayuda para participar?

Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Vietnamese

Quý vị có cần trợ giúp gì để tham gia không?

Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

**FREDERICK L. HILL, CHAIRPERSON
LESYLLEÉ M. WHITE, MEMBER
CARLTON HART, VICE-CHAIRPERSON,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
ONE BOARD SEAT VACANT
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, May 25, 2017, @ 6:30 p.m.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Z.C. CASE NO. 16-24 (1336 8th Street SPE, LLC– Consolidated PUD & Related Map Amendment @ Square 399, Lot 68)

THIS CASE IS OF INTEREST TO ANCs 6E & 2F

On November 7, 2016, the Office of Zoning received an application from 1336 8th Street SPE, LLC (the “Applicant”) for approval of a consolidated Planned Unit Development (“PUD”) and a related Zoning Map amendment from the MU-4 zone to the MU-6 zone for the above-referenced property.

The property that is the subject of this application consists of Lot 68 in Square 399 in northwest Washington, D.C. (the “Property”). The Property is located at the southwest corner of the intersection of 8th and O Street. It has a land area of approximately 13,306 square feet and is a rectangular lot with approximately 141 linear feet of frontage on 8th Street, approximately 94.33 linear feet of frontage on O Street, and approximately 141 linear feet of frontage on a public alley to the west of the Property.

The Office of Planning provided its report on February 3, 2017, and the case was set down for a public hearing on February 13, 2017. The Applicant provided its prehearing statement on March 6, 2017.

The Applicant is proposing to redevelop the Property with a mixed-use development with approximately 80 units and approximately 7,980 square feet of non-residential uses. The maximum density of the Project will be 7.2 FAR. The Project will also have a maximum building height of 98 feet and includes 23 below grade parking spaces. The Applicant will set aside 30% of the total residential units as affordable units, half of which will be reserved for households earning up to 50% of the area median income (“AMI”) and half of the affordable units will be reserved for households earning up to 80% of AMI. The Applicant has requested a waiver of the minimum land area requirements for a PUD and flexibility from the rear yard requirements, open court width requirements, closed court width requirements, lot occupancy requirements, loading requirements, and proportionality of affordable units.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Commission’s Rules of Practice and Procedure, 11 DCMR Subtitle Z, Chapter 4.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for an affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: <https://app.dcoz.dc.gov/Help/Forms.html>.** This form may also be obtained from the Office of Zoning at the address stated below.

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

1. Applicant and parties in support 60 minutes collectively

- 2. Parties in opposition 60 minutes collectively
- 3. Organizations 5 minutes each
- 4. Individuals 3 minutes each

Pursuant to Subtitle Z § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, ROBERT E. MILLER, PETER A. SHAPIRO, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.

¿Necesita ayuda para participar? Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Avez-vous besoin d'assistance pour pouvoir participer? Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

참여하시는데 도움이 필요하세요? 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

您需要有人帮助参加活动吗?如果您需要特殊便利设施或语言协助服务(翻译或口译)·请在见面之前提前五天与 Zee Hill 联系·电话号码 (202) 727-0312, 电子邮件 Zelalem.Hill@dc.gov 这些是免费提供的服务。

Quý vị có cần trợ giúp gì để tham gia không? Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለመከተሉ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓጃ) ካስፈለገዎት እባክዎን ከስብሰባው አጭክት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚጠቅ በነጻ ነው።

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, June 1, 2017, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 17-07 (JW Capital Partners, LLC and Geolo Capital, II, LLC – SEFC-2 Design Review of Parcel L1 in The Yards (Square 771, Lot 800))

THIS CASE IS OF INTEREST TO ANC 6D

On March 29, 2017 the Office of Zoning received an application from JW Capital Partners, LLC and Geolo Capital II, LLC (the “Applicant”) on behalf of Forest City Washington and the General Services Administration. The Applicant is requesting design review and approval of a new building fronting on the SEFC-4 zone open space area pursuant to Subtitle K, Chapter 2 and Subtitle X, Chapter 6 of Title 11 of the District of Columbia Municipal Regulations (“Zoning Regulations of 2016”).

The property that is the subject of this Application consists of the northern one-third portion of the approximately 69,385 square feet lot formally designated as Square 771, Lot 800 (the “Property”). The Property is currently used for surface parking and is bounded by Tingley Street, S.E. to the north, 3rd Street, S.E. to the east, the unimproved Water Street, S.E. right of way to the south, and the currently unbuilt 2nd Street, S.E. right of way to the west. The Property is currently zoned SEFC-2. The proposed multi-family residential and retail building (the “L2 Project”) proposed for the southern approximately two-thirds of the Property was the subject of a SEFC-2 design review application in Z.C. Case No. 16-16, which was approved on December 12, 2016. The Project and the L2 Project are proceeding under separate design review applications.

The Applicant proposes to construct a ten-story approximately 227-unit hotel building with ground floor retail/eating and drinking establishment space (the “Project”). Below-grade parking and enclosed at-grade loading will be shared between the Project and the previously-approved L2 Project. The Project also seeks Zoning Commission approval of the proposed hotel use as well as variance relief from the side yard requirements and special exception relief for the Project’s penthouse setback and use.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Commission’s Rules of Practice and Procedure, 11 DCMR Subtitle Z, Chapter 4.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most

important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for an affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person’s interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning’s website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |
| 3. | Organizations | 5 minutes each |
| 4. | Individuals | 3 minutes each |

Pursuant to Subtitle Z § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, ROBERT E. MILLER, PETER A. SHAPIRO, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.

¿Necesita ayuda para participar? Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Avez-vous besoin d'assistance pour pouvoir participer? Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

참여하시는데 도움이 필요하세요? 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

您需要有人帮助参加活动吗?如果您需要特殊便利设施或语言协助服务(翻译或口译)·请在见面之前提前五天与 Zee Hill 联系·电话号码 (202) 727-0312, 电子邮件 Zelalem.Hill@dc.gov 这些是免费提供的服务。

Quý vị có cần trợ giúp gì để tham gia không? Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለመከተል ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አጭክት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡ በነጻ ናቸው።

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2012 Repl.)), hereby gives notice of corrections to the Notice of Final Rulemaking issued by the Department of Motor Vehicles and published in the *D.C. Register* on March 31, 2017 at 64 DCR 3170.

The final rulemaking amended Chapter 4 (Motor Vehicle Title and Registration) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR). An amendment to Section 433 (Organizational Tags) mistakenly numbered the new subsections as § 433.9 and § 433.10 instead of § 433.10 and § 433.11.

The correction to the final rulemaking is made below, with a ~~strikethrough~~ indicating the language to be corrected:

Chapter 4, MOTOR VEHICLE TITLE AND REGISTRATION, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 433, ORGANIZATIONAL TAGS, is amended as follows:

A new Subsection 433.910 is added to read as follows:

433.910 The Director shall reject any proposed organizational tag or rescind the issuance of any organizational tag that conveys a message, or displays an image, that is confusing or offensive to the general public.

A new Subsection 433.1011 is added to read as follows:

433.1011 For the purposes of § 433.910, the Director shall reject or rescind the issuance of any organizational tag with a design or combination of letters or numbers that:

- (a) Is vulgar, derogatory, profane, scatological or obscene, with any connotation, in any language;
- (b) Connote, in any language, breast, genitalia, pubic area, or buttocks or relate to sexual or eliminatory functions.
- (c) Connote, in any language (i) any illicit drug, narcotic, intoxicant, or related paraphernalia; (ii) the sale, user, or purveyor of such a substance; or (iii) the physiological state produced by such a substance;

- (d) Refer, in any language, to a race, religion, color, deity, ethnic heritage, gender, sexual orientation, disability status, or political affiliation;
- (e) Suggest, in any language, a government or governmental agency;
- (f) Suggest, in any language, a privilege not given by law in this state; or
- (g) Form, in any language, a slang term, abbreviation, phonetic spelling or mirror image of a word described in this subsection.

This Errata Notice's correction to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of March 31, 2017.

Any questions or comments regarding this notice shall be addressed by mail to Victor L. Reid, Esq., Administrator, Office of Documents and Administrative Issuances, 441 4th Street, N.W., Suite 520 South, Washington, D.C. 20001, email at victor.reid@dc.gov, or via telephone at (202) 727-5090.

DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF FINAL RULEMAKING

The District of Columbia Department of For-Hire Vehicles (“Department”), pursuant to the authority set forth in Sections 8(c)(2), (3), (7), and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(2) (3), (7), and (19), 50-313, and 50-319 (2014 Repl. & 2016 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2015 Repl.), hereby gives notice of its intent to adopt amendments to Chapter 12 (Luxury Class Services – Owners, Operators, and Vehicles) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends Chapter 12 to establish data reporting requirements for luxury class vehicles when used as limousines. The data collected will allow the Department to: determine the availability wheelchair accessible vehicles in this class of service; measure vehicle response time; ensure the reasonableness of rates and charges; and develop policy based on data which includes a broader spectrum of public vehicles-for-hire. The rules also establish greater parity in operating rules among existing public vehicle-for-hire services.

Proposed rulemaking was adopted by the D.C. Taxicab Commission (“Commission”), the predecessor agency to the Department, on December 9, 2015 and published in the *D.C. Register* on February 26, 2016, at 63 DCR 002257. The Commission received one comment during the comment period, which expired March 27, 2016, stating that the rulemaking should be withdrawn because it would impose unnecessary burdens on business owners and present privacy concerns. The Commission did not make changes in response to this comment because the reporting requirements are reasonable, and are consistent with the existing rules for taxicabs to report trip data to the Department through payment service providers, and the operation of black cars occurs entirely through apps provided by digital dispatch services, which requires a real-time data flow. Further, the rulemaking would limit data reporting to once per day and would not require the collection of private information. Changes have been made to update the implementation date, clarify intent, correct grammar, and limit the collection of real time information to periods when the operator is on duty. No substantial changes have been made.

The Commission voted to adopt these rules as final on April 13, 2016, and they will become effective upon publication in the *D.C. Register*.

Chapter 12, LUXURY CLASS SERVICES – OWNERS, OPERATORS, AND VEHICLES, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended to read as follows:

Section 1201, GENERAL REQUIREMENTS, is amended as follows:

A new Subsection 1201.9 is added to read as follows:

1201.9 Beginning May 1, 2016, or at such later date as set by the Department in an administrative issuance (“implementation date”), each owner of a luxury class vehicle, when used to provide limousine service, shall provide the Department with the following trip data for all limousine trips:

- (1) The operator’s DCTC operator’s license (face card) number;
- (2) The vehicle’s tag (license plate) number;
- (3) The vehicle’s vehicle identification number (VIN);
- (4) The name of the vehicle owner;
- (5) The date and time of the beginning of the operator’s tour of duty;
- (6) The duration and mileage of each trip;
- (7) The date and time of the pickup and drop-off of each trip;
- (8) The address and/or geospatially-recorded place of pickup and drop-off of each trip;
- (9) The number of passengers;
- (10) The unique trip identification number assigned by the owner or operator, if any;
- (11) The total fare, with an itemization of all rates and charges;
- (12) The form of payment;
- (13) The date and time of the end of the operator’s tour of duty;
- (14) The date and time that the data was transmitted to the Department;
- (15) The date on which the vehicle’s insurance policy expires;
- (16) The vehicle’s odometer reading;
- (17) The vehicle’s type of propulsion;
- (18) An indication of whether the vehicle is wheelchair accessible; and
- (17) Such other reasonable information within the jurisdiction of the Department as it may require through an administrative issuance.

1201.10 The trip data required by § 1201.9 shall be reported no more than once per day or such lower frequency as set in an administrative issuance, and real time information may be required only when the operator is on duty.

WASHINGTON CONVENTION AND SPORTS AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors of the Washington Convention and Sports Authority (Authority), pursuant to Section 203 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code §§ 10-1202.03(3) and (6) (2013 Repl. & 2016 Supp.)), as amended by the Fiscal Year 2010 Budget Support Act of 2009, effective March 3, 2010 (D.C. Law 18-111; D.C. Official Code §§ 10-1201.01 *et seq.* (2013 Repl. & 2016 Supp.)) (the Act), hereby gives notice of its adoption of the following amendment to Chapter 3 (Washington Convention and Sports Authority: Procurement) of Title 19 (Amusements, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR).

The amendment exempts from competition the procurement of certain goods and services essential to the Authority's statutory mission of promoting the District of Columbia as a destination for trade shows and conventions, tourism and leisure travel, recreational events, and sports and entertainment events. Under the Authority's current procurement rules, the Authority must procure goods, services, or construction by invitation for bid, request for proposals, small purchase, emergency procurement, or sole source procurement.

Since the 2009 merger of the Washington Convention Center Authority with the D.C. Sports and Entertainment Commission, the Authority's mission has expanded to include the hosting of sporting events, sports teams, recreational events and entertainment events in the District of Columbia. In particular, the Authority has undertaken the development and programming of original events, including the AT&T Nation's Football Classic, Embassy Chef Challenge, and Events DC Cherry Blast; it is the presenting sponsor of the National Cherry Blossom Festival; it has embarked on several sports and entertainment-related strategic initiatives including the Entertainment and Sports Arena to be constructed on the St. Elizabeths East Campus in Ward 8; and it has focused increasingly on marketing and promoting its Events DC brand through its participation in premier events such as the South by Southwest Conferences and Festivals (SXSW) held in Austin, Texas March 10-19, 2017.

The amended regulations are an adaptation of those of D.C. Official Code § 2-354.13 and 27 DCMR § 1703 and exempt certain categories of contracts from competition, including contracts for many of the goods and services that the Authority regularly purchases in connection with its entertainment and sports events. The Authority's existing procurement rules on the other hand are primarily directed toward the competitive purchases of customary goods and services and do not easily permit it to engage the type of services – particularly hiring entertainment, conducting media buys and purchasing social media and other digital advertisements – that are necessary to carry out its mission. Further, there are several expenditures the Authority must make on a regular basis, such as membership dues, postage and subscriptions, which the District has clearly exempted from competition in its rules, but which have never been expressly included as exceptions in the Authority's procurement regulations.

The Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on February 17, 2017 at 64 DCR 1891. No comments were received in response to the rulemaking and no changes were made. This rulemaking shall take effect immediately upon publication in the *D.C. Register*.

Chapter 3, WASHINGTON CONVENTION AND SPORTS AUTHORITY: PROCUREMENT, of Title 19 DCMR, AMUSEMENTS, PARKS, AND RECREATION, is amended as follows:

Section 301, GENERAL REQUIREMENTS: METHODS OF PROCUREMENT, Subsection 301.1, is amended to read as follows:

301.1 Unless the CCO elects to make a procurement pursuant to a contract of the U.S. General Services Administration or of the Chief Procurement Officer of the District of Columbia government, or unless otherwise exempt pursuant to Subsection 301.8 of these regulations, the CCO shall procure any goods, services or construction by one of the methods set forth in these regulations, namely:

- (a) Invitation for bids;
- (b) Request for proposals;
- (c) Small purchase;
- (d) Emergency procurement; or
- (e) Sole source procurement.

Subsection 301.8 is newly adopted and shall read as follows:

301.8 Procurements for the following goods and services shall be exempt from the competition requirements established by this chapter:

- (a) Artistic services or works of art;
- (b) Commodities or contractual services if federal or District law prescribes with whom the Authority must contract;
- (c) Legal services or negotiation services in connection with proceedings before administrative agencies or state or federal courts, including experts, attorneys, and mediators;
- (d) Copyrighted or patented materials, including technical pamphlets, published books, maps, and testing or instructional materials; provided, that the materials are purchased directly from the owner of the copyright or patent;

- (e) Memberships in trade or professional organizations;
- (f) Entertainers, including speakers;
- (g) Job-related seminars and training for Authority employees, when such seminars or training is offered to the general public;
- (h) Maintenance and support of existing software and technology to the extent that the creator of the intellectual property is still protected and is the only source of the maintenance and support of the existing software and technology;
- (i) Public transit farecards, passes and tokens;
- (j) Personal property or services provided by another public entity, agency, or authority, or an organization consisting of such entities, agencies or authorities;
- (k) Postage;
- (l) Purchases of advertising in all media, including electronic, print, radio, and television; provided, that such purchases are made directly from the media outlet;
- (m) Trade and career fairs for Authority employees;
- (n) Special event venues and related services as dictated by the establishment;
- (o) Subscriptions for periodicals and newspapers; and
- (p) Ticket purchases for special events, tourist attractions, and amusement parks.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 44 (Dietetics) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the dietetics regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”), in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Repl.)).

Chapter 44, DIETETICS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 4406, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:

4406 CONTINUING EDUCATION REQUIREMENTS

- 4406.1 Subject to § 4406.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring April 30, 1991, and for subsequent terms.
- 4406.2 This section shall not apply to applicants for an initial license by examination, reciprocity, or endorsement, nor shall it apply to applicants for the first renewal of a license.
- 4406.3 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 4407.
- 4406.4 To qualify for the renewal of a license, an applicant shall have completed thirty (30) hours of approved continuing education credit during the two (2)-year period preceding the date the license expires. Beginning with the November 1, 2017 – October 31, 2019 licensure term, two (2) of the required thirty (30) hours shall be LGBTQ continuing education.

- 4406.5 To qualify for the reactivation of a license, a person in inactive status within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11 (2016 Repl.)), who submits an application to reactivate a license shall submit proof of having completed fifteen (15) hours of approved continuing education credit for each license year that the applicant was in inactive status, up to a maximum of thirty (30) hours.
- 4406.6 To qualify for the reinstatement of a license, an applicant shall submit proof of having completed fifteen (15) hours of approved continuing education credit for each year after that the applicant was not licensed, up to a maximum of thirty (30) hours.
- 4406.7 An applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:
- (a) The name and address of the sponsor of the program;
 - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
 - (c) The dates on which the applicant attended the program;
 - (d) The hours of credit claimed; and
 - (e) Verification by the sponsor of completion by signature or stamp.
- 4406.8 The Board may periodically conduct a random audit of its active licensees to determine continuing education compliance. Any licensee selected for the audit shall submit proof of his or her continuing education compliance to the Board within thirty (30) days of receiving notification of the audit. Failure to timely respond to the audit notice may subject the licensee to disciplinary action by the Board.

Section 4499, DEFINITIONS, is amended as follows:

Subsection 4499.1 is amended as follows:

The following definition is added before the definition of “Applicant”:

Act – 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 *et seq.* (2016 Repl.)).

The following definition is added before the definition of “Nutritionist”:

LGBTQ continuing education – continuing education focusing on patients or

clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Repl.)).

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302 (14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 45 (Nutrition) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the nutrition regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Repl.)).

Chapter 45, NUTRITION, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended to as follows:

Section 4506, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:

4506 CONTINUING EDUCATION REQUIREMENTS

- 4506.1 Subject to § 4506.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring April 30, 1991, and for subsequent terms.
- 4506.2 This section does not apply to applicants for an initial license; nor does it apply to applicants for the first renewal of a license.
- 4506.3 A continuing education credit shall be valid only if it meets the requirements of § 4507 and is approved by the Board.
- 4506.4 To qualify for the renewal of a license, an applicant shall have completed thirty (30) hours of approved continuing education credit during the two (2)-year period preceding the date the license expires. Beginning with the November 1, 2017 – October 31, 2019 licensure term, two (2) of the required thirty (30) hours shall be LGBTQ continuing education.
- 4506.5 To qualify for the reactivation of a license, a person in inactive status within the meaning of § 511 of the Act(D.C. Official Code § 3-1205.11 (2016 Repl.)) who

submits an application to reactivate a license shall submit proof of having completed fifteen (15) hours of approved continuing education credit for each license year that the applicant was in inactive status, up to a maximum of five (5) years, with at least thirty (30) of those hours having been completed in the two (2) years immediately preceding the date of applying for reactivation.

4506.6 To qualify for the reinstatement of a license, an applicant shall submit proof of having completed fifteen (15) hours of approved continuing education credit for each year that the applicant was not licensed, up to a maximum of five (5) years, with at least thirty (30) of those hours having been completed in the two (2) years immediately preceding the submission of the reinstatement application.

4506.7 Except as provided in § 4506.8, an applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:

- (a) The name and address of the sponsor of the program;
- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The dates on which the applicant attended the program;
- (d) The hours of credit claimed; and
- (e) Verification by the sponsor of completion, by signature or stamp.

4506.8 Applicants for renewal of a license shall only be required to prove completion of the required continuing education credits by submitting proof pursuant to § 4506.7 if requested to do so as part of the random audit, or if otherwise requested to do so by the Board.

4506.9 The Board may periodically conduct a random audit of its active licensees to determine continuing education compliance. Any licensee selected for the audit shall submit proof of his or her continuing education compliance to the Board within thirty (30) days of receiving notification of the audit. Failure to timely respond to the audit notice may subject the licensee to disciplinary action by the Board.

Section 4599, DEFINITIONS, is amended as follows:

Subsection 4599.1 is amended as follows:

The following definition is added before the definition of “Applicant”:

Act – 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 *et seq.* (2016 Repl.)).

The following definition is added before the definition of “Nutritionist”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“the Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 62 (Nursing Home Administration) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the nursing home administration regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 62, NURSING HOME ADMINISTRATION, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 6206, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:

6206 CONTINUING EDUCATION REQUIREMENTS

- 6206.1 Subject to § 6206.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license.
- 6206.2 This section shall not apply to applicants for an initial license; nor shall it apply to applicants for the first renewal of a license after the initial grant.
- 6206.3 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 6207.
- 6206.4 To qualify for the renewal of a license, an applicant shall have completed, during the two (2)-year period preceding the date the license expires, forty (40) hours of approved continuing education credit, which shall include:
- (a) At least ten (10) hours of the required forty (40) hours shall have been in one (1) or more of the following areas:
 - (1) Staff management;

- (2) Continuity in assigning the same nursing staff to the same residents as often as practicable;
 - (3) Creating a resident-centered environment;
 - (4) Activities of daily living and instrumental activities of daily living;
 - (5) Wound care;
 - (6) Pain management;
 - (7) Prevention and treatment of depression;
 - (8) Prevention of pressure ulcers;
 - (9) Urinary incontinence management;
 - (10) Discharge planning and community transitioning;
 - (11) Fall prevention;
 - (12) Geriatric social services and individual competency; or
 - (13) Behavior management; and
- (b) An applicant seeking to renew his or her license on or after June 30, 2018 shall also have completed two (2) hours of LGBTQ continuing education.

6206.5 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11 (2016 Repl.)) who submits an application to reactivate a license shall submit proof of having completed twenty (20) hours of approved continuing education credit for each year after June 30, 2003 that the applicant was not actively licensed, up to a maximum of one hundred (100) hours. At least twenty (20) hours of approved continuing education credit shall have been completed in the one (1)-year period prior to the application date.

6206.6 To qualify for a license, an applicant for reinstatement of a license shall submit proof of having completed twenty (20) hours of approved continuing education credit for each year after June 30, 2003 that the applicant was licensed, up to a maximum of one hundred (100) hours. At least twenty (20) hours of approved continuing education credit shall have been completed in the one (1)-year period prior to the application date.

- 6206.7 An applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:
- (a) The name and address of the sponsor of the program;
 - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
 - (c) The dates on which the applicant attended the program;
 - (d) The hours of credit claimed; and
 - (e) Verification by the sponsor of completion, by signature or stamp, after which time continuing education credit will be granted.
- 6206.8 The Board may periodically conduct a random audit of licensees to determine compliance with the continuing education requirement.
- 6206.9 A licensee who is selected to participate in the Board's continuing education audit shall, within thirty (30) days after being deemed served notice of the selection, submit proof pursuant to § 7008.12 of having completed the required approved continuing education credits during the two (2)-year period immediately preceding the date the license expires.

Section 6299, DEFINITIONS, is amended as follows:

Subsection 6299.1 is amended as follows:

The following definition is added before the definition of "A.I.T.":

Act – 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 *et seq.* (2016 Repl.)).

The following definition is added before the definition of "NABENHA":

LGBTQ continuing education - continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression ("LGBTQ") meeting the requirements of Section 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the

General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)) hereby gives notice of the intent to adopt the following amendments to Chapter 63 (Occupational Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the occupational therapy regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 63, OCCUPATIONAL THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 6306, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 6306.3 is amended to read as follows:

6306.3 An applicant for license renewal shall complete a minimum of twenty-four (24) contact hours of approved continuing education in accordance with §§ 6307 and 6308 during the two (2)-year period preceding the date the license expires. Beginning with the licensure term starting on October 1, 2017, the continuing education required in this section shall include two (2) hours of LGBTQ continuing education.

Section 6308, CONTINUING EDUCATION CREDITS, is amended as follows:

Subsection 6308.1 is amended to read as follows:

6308.1 One (1) contact hour of continuing education shall consist of at least fifty (50) minutes of learning time.

Section 6309, REACTIVATION, is amended as follows:

Subsection 6309.2 is amended to read as follows:

6309.2 A reactivation applicant whose license has been inactive five (5) years or less who does not hold a license in any other jurisdiction shall complete twelve (12) contact hours of approved continuing education for each year that the applicant was not licensed, up to a maximum of sixty (60) hours, providing further that, regardless of the total number of continuing education hours required, two (2) of the required hours shall be LGBTQ continuing education.

Subsection 6309.3 is amended to read as follows:

6309.3 A reactivation application whose license has been inactive for more than 5 (five) years who does not hold an active license in any other jurisdiction shall complete:

- (a) Twelve (12) contact hours of approved continuing education for each year that the applicant was not licensed, up to a maximum of sixty (60) hours. Twenty-four (24) of those contact hours shall have been completed within two (2) years prior to the date the application is submitted and two (2) of the total hours required shall be LGBTQ continuing education; and
- (b) One hundred sixty (160) hours of supervised clinical training by a licensed occupational therapist within the two (2) months prior to the date the application is submitted.

Section 6310, REINSTATEMENT, is amended as follows:

Subsection 6310.3 is amended to read as follows:

6310.3 A reinstatement applicant who holds an active license in any other jurisdiction shall complete twelve (12) contact hours of approved continuing education for each year that the applicant was not licensed in the District, up to a maximum of sixty (60) hours. Twenty-four (24) contact hours must have been completed within two (2) years prior to the date the application is submitted and two (2) of the total hours required shall be LGBTQ continuing education.

Subsection 6310.4 is amended to read as follows:

6310.4 A reinstatement applicant who does not hold an active license in any jurisdiction shall submit proof of having completed the following:

- (a) Twelve (12) contact hours of approved continuing education program for each year that the applicant was not licensed up to a maximum of sixty (60) hours. Twenty-four (24) contact hours shall have been completed within two (2) years prior to the date the application is submitted and two (2) of the total hours required shall be LGBTQ continuing education; and

- (b) One hundred sixty (160) hours of supervised clinical training by a licensed occupational therapist within two (2) months prior to the date the application is submitted.

Section 6399, DEFINITIONS, is amended as follows:

Subsection 6399.1 is amended as follows:

The following definitions are added before the definition of “Board”:

Act – 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 *et seq.* (2016 Repl.)).

Approved continuing education – continuing education meeting the requirements of §§ 6307 and 6308.

The following definitions are added before the definition of “Occupational therapist”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Licensure term – the two-year period between October 1 of each odd-numbered year to September 30 of the next odd-numbered year during which a license issued pursuant to this chapter is valid in accordance with § 6301.1.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent by mail to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Health Occupations Revision Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 64 (Optometry) of Title 17 (Business, Occupations, and Professionals) 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*.

The purpose of the rulemaking is to set forth rule amendments regarding new continuing education requirements imposed by the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016 for optometrists. In addition, the rulemaking clarifies the number of continuing education credits that must be submitted for the purpose of reactivating a license that has been in inactive status and establishes the number of hours that must be submitted for reinstatement of a license. Finally, the rulemaking defines the term “good cause” and the conditions under which “good cause” is recognized by the Board of Optometry.

Chapter 64, OPTOMETRY of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 6406, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 6406.4 is amended to read as follows:

6406.4 An applicant for renewal of a license shall submit proof of having completed thirty-six (36) hours of approved continuing education credit during the two (2) year period preceding the date the license expires. Such proof shall be submitted within thirty (30) days after it is requested by the Board. An applicant for renewal of a license expiring on March 31, 2020 and all subsequent licensure terms shall complete two (2) additional hours of approved continuing education credit in cultural competence and appropriate clinical treatment specifically for individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression for a total of thirty-eight (38) hours.

Subsection 6406.5 is amended to read as follows:

6406.5 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act, D.C. Official Code § 3-1205.11 (2016 Repl.), who submits an application to reactivate a license shall submit to the Board satisfactory proof of completion

of continuing education hours required of a practitioner on active status during the period of inactivity, not to exceed ninety (90) hours.

Subsection 6406.6 is amended to read as follows:

6406.6 Any optometrist whose license has been expired for less than five (5) years and who has not been put on inactive status may apply for reinstatement of his or her license. The Board may reinstate the license if the optometrist submits to the Board satisfactory proof of having subsequently met the continuing education requirements required of a practitioner on active status consistent with § 6406.4 during the period the license was expired, not to exceed ninety (90) hours.

Subsection 6406.12 is amended to read as follows:

6406.12 The Board may, in its discretion, grant an extension of the sixty (60)-day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause. For the purpose of this section, "good cause" includes the following:

- (a) Serious and protracted illness of the applicant; or
- (b) The death or serious and protracted illness of a member of the applicant's immediate family.

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.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 67 (Physical Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the physical therapy regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Repl.)).

Chapter 67, PHYSICAL THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 6706, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:

6706 CONTINUING EDUCATION REQUIREMENTS

- 6706.1 Subject to § 6706.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring on or after January 31, 2013, and for subsequent terms.
- 6706.2 This section shall not apply to applicants for the first renewal of a license.
- 6706.3 A continuing education credit shall be valid only if it is approved by the Board in accordance with § 6707.
- 6706.4 To qualify for the renewal of a license, an applicant shall have completed forty (40) hours of approved continuing education during the two (2) years’ period preceding the date the license expires, which shall include:
- (a) No more than twenty (20) hours of approved continuing education credits earned through internet courses; and
 - (b) Beginning with the licensure term starting on February 1, 2019, two (2) hours of LGBTQ continuing education.
- 6706.5 The Board may periodically conduct a random audit to determine licensees’ compliance with the continuing education. A licensee who is selected to participate in the Board’s continuing education audit shall, within thirty (30) days

after receiving notice of the selection, submit proof pursuant to § 6706.8 of having completed the required approved continuing education credits during the two (2)-year period immediately preceding the date the license expires.

6706.6 To qualify for a license, a person in inactive status, within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11 (2016 Repl.)) who does not possess a valid, active license to practice physical therapy in any jurisdiction of the United States shall submit proof pursuant to § 6706.7 of having completed the following within the two (2)-year period preceding the date of the application for reactivation of that applicant's license:

- (a) Twenty (20) hours of approved continuing education meeting the requirement of § 6707.1 for each year that the license remains inactive up to a maximum of one hundred (100) hours; and
- (b) Two (2) hours of LGBTQ continuing education.

6706.7 To qualify for reactivation of a license, a person in inactive status, within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11 (2016 Repl.)) who maintains a valid, active license in another jurisdiction of the United States shall establish his or her current competency to the Board's satisfaction, which may include proving completion of approved continuing education within a period of no more than five (5) years preceding the date of the reactivation application. An applicant under this subsection shall also complete two (2) hours of LGTBQ continuing education within the two (2) year-period preceding the date of the application.

6706.8 To qualify for reinstatement of a license, an applicant for reinstatement of a license shall submit proof pursuant to § 6706.9 of having completed, no more than two (2) years before the date of the reinstatement application:

- (a) Twenty (20) hours of approved continuing education meeting the requirement of § 6707.1 for each year that the license was not valid; and
- (b) Two (2) hours of LGTBQ continuing education.

6706.9 Except as provided in § 6706.10, an applicant under this section shall prove completion of the required continuing education credits by submitting with the application the following information with respect to each program for which continuing education credit is claimed, and shall maintain for a period of at least five (5) years the following information with respect to each program:

- (a) The name and address of the sponsor of the program;
- (b) The name of the program;
- (c) The location of the program;

- (d) A description of the subject matter covered in the program;
- (e) The names of the program instructors;
- (f) The dates on which the applicant attended the program;
- (g) The hours of credit claimed; and
- (h) Verification by the sponsor of completion, by signature or stamp.

6706.10 Applicants for renewal of a license shall only be required to prove completion of the required continuing education credits by submitting proof pursuant to § 6706.9 if requested to do so as part of the random audit, or if otherwise requested to do so by the Board.

Section 6799, DEFINITIONS, is amended as follows:

Subsection 6799.1 is amended as follows:

The following definition is added before the definition of “Applicant”:

Act – 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 *et seq.* (2016 Repl.)).

The following definition is added before the definition of “Physical therapist”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Repl.)).

The following definition is added after the definition of “Restricted license”:

Valid, active license – a license to practice physical therapy in any jurisdiction that is currently valid and has been valid during the relevant period.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Health Occupations Revision Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendment to Chapter 68 (Podiatry) of Title 17 (Business, Occupations, and Professionals) 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*.

The purpose of the rulemaking is to set forth a rule amendment regarding new continuing education requirements imposed by the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016 for podiatrists.

Chapter 68, PODIATRY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 6806, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 6806.4 is amended to read as follows:

6806.4 An applicant for renewal of a license expiring on March 31, 2018, shall submit proof pursuant to § 6806.7 of having completed fifty (50) hours of approved continuing education credit directly related to the practice of podiatric medicine during the two (2) year period preceding the date the license expires. An applicant for a renewal, reactivation, or reinstatement of a license expiring on March 31, 2020, and all subsequent licensure terms shall submit proof pursuant to § 6806.7 of having completed fifty (50) hours of approved continuing education credit directly related to the practice of podiatric medicine during the two (2)-year period preceding the date the license expires that shall also include two (2) hours in cultural competence and appropriate clinical treatment specifically for individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression. Twenty-five (25) of the fifty (50) required continuing education credits may be completed on line. Proof of successful completion shall be submitted within ten (10) days after it is requested by the Board.

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.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 69 (Psychology) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the psychology regulation to include the new requirement for cultural competency continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 69, PSYCHOLOGY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 6906, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 6906.2 is amended to read as follows:

6906.2 This section does not apply to applicants for an initial license or applicants for the first renewal after the initial grant of a license.

Subsection 6906.4 is amended to read as follows:

6906.4 To qualify for the renewal of a license, an applicant shall complete thirty (30) hours of valid continuing education during the two (2)-year period preceding the date the license expires, which shall also meet the following requirements:

- (a) At least fifteen (15) hours of valid continuing education shall be completed in live program(s); and
- (b) An applicant seeking to renew his or her license on or before December 31, 2017 shall complete three (3) hours each in ethics and cultural competency; or
- (c) An applicant seeking to renew his or her license on or before December 31, 2019 and thereafter shall complete two (2) hours of LGBTQ continuing education.

Subsection 6906.6 is amended to read as follows:

6906.6 An applicant for reinstatement whose license had expired no more than two (2) years shall submit proof of having completed fifteen (15) approved continuing education hours, including one (1) hour of LGBTQ continuing education, for each year after the license expired. A reinstatement applicant whose license has expired for more than two (2) years shall retake and pass the D.C. jurisprudence examination, as provided in § 6905, and complete the number and type of continuing education credits required by the Board, which shall be determined on a case by case basis.

Subsection 6906.9 is repealed.**Section 6999, DEFINITIONS, is amended as follows:****Subsection 6999.1 is amended as follows:****The following definition is added before the definition of “Delegated Supervisor”:**

Act – 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 *et seq.* (2016 Repl.)).

The following definition is added before the definition of “Licensure Period”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 70 (Social Work) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the social work regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”), in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Repl.)).

Chapter 70, SOCIAL WORK, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 7008, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:

7008 CONTINUING EDUCATION REQUIREMENTS

- 7008.1 Except as provided in § 7008.2, this section applies to applicants for the renewal, reactivation, or reinstatement of a license.
- 7008.2 This section does not apply to applicants for an initial license or to applicants for the first renewal after the initial grant of a license regardless of the licensure type or level.
- 7008.3 Continuing education credits (CEUs) may be granted only for programs or activities approved by the Board pursuant to § 7009.
- 7008.4 Except as provided in § 7008.2, beginning with the licensure term starting on August 1, 2015, all applicants for renewal of a license shall have completed forty (40) hours of approved continuing education credit during the two (2)-year period preceding the date the license expires, which shall include:
- (a) No more than twelve (12) hours of independent home studies, distance learning continuing education activities, or internet courses; and

- (b) For applicants seeking renewal of a license expiring on July 31, 2017, at least six (6) hours of continuing education credits in live, in-person face-to-face ethics, professional conduct, or boundary course(s) in which the participant and presenter are physically present in the same room and at least three (3) hours of continuing education credits in Human Immunodeficiency Virus (HIV) training; or
- (c) For applicants seeking renewal of a license expiring on July 31, 2019 and thereafter, at least six (6) hours of continuing education credits in live, in-person, face-to-face ethics, professional conduct, or boundary course(s) in which the participant and presenter are physical present in the same room and at least two (2) hours of LGBTQ continuing education.

7008.5 The Board may periodically conduct a random audit of licensees to determine compliance with the continuing education requirement.

7008.6 A licensee who is selected to participate in the Board's continuing education audit shall, within thirty (30) days after being deemed served notice of the selection, submit proof pursuant to § 7008.12 of having completed the required approved continuing education credits during the two (2)-year period immediately preceding the date the license expires.

7008.7 To qualify for a license, an applicant in inactive status within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11 (2016 Repl.)) for five (5) years or less who applies for reactivation shall submit proof of completing forty (40) hours of approved continuing education credit during the two (2) years immediately preceding the application, which shall include:

- (a) At least six (6) hours of continuing education credits in live, face- to-face ethics, professional conduct, or boundary course(s);
- (b) At least two (2) hours of LGBTQ continuing education; and
- (c) No more than twelve (12) continuing education hours in independent home studies, distance learning continuing education activities, or internet courses.

7008.8 To qualify for a license, an applicant in inactive status within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11 (2016 Repl.)) for more than five (5) years who applies for reactivation shall submit proof of completing, during the two (2) years immediately preceding the application, forty (40) hours of continuing education as required in § 7008.7 and may be required to practice, for a period of twelve (12) months, under the supervision of a board-approved supervisor who shall submit quarterly competency reports to the Board.

- 7008.9 Notwithstanding §§ 7008.7 or 7008.8, an applicant for reactivation of a license who has maintained a valid and active social work license in good standing in another jurisdiction of the United States shall be presumed to possess current competency and may qualify for the reactivation of his or her license.
- 7008.10 To qualify for the reinstatement of a license, an applicant whose license has expired for less than five (5) years, shall submit proof of having completed, during the two (2)-year period immediately preceding the application, forty (40) hours of approved continuing education, which shall include:
- (a) At least six (6) hours of continuing education credits in live, face- to-face ethics, professional conduct, or boundary course(s);
 - (b) At least two (2) hours of LGBTQ continuing education; and
 - (c) No more than twelve (12) continuing education hours in independent home studies, distance learning continuing education activities, or internet courses.
- 7008.11 An applicant whose license has expired for five (5) or more years shall not be eligible for reinstatement of licensure. The applicant shall be required to apply for a new license and shall meet the requirements as they exist at the time that the applicant applies for licensure.
- 7008.12 Proof of completion of the required continuing education credits may be established by submitting the following information with respect to each program for which continuing education credit is claimed:
- (a) The name and address of the sponsor of the program;
 - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
 - (c) The dates on which the applicant attended the program;
 - (d) The hours of credit claimed; and
 - (e) Verification by the sponsor of completion, by signature or stamp.
- 7008.13 Proof of completion of continuing education course work which was audited under § 7010.3 may be established by a verification of registration from the office of the registrar of the institution at which the course was audited.

Section 7099, DEFINITIONS, is amended as follows:

Subsection 7099.1 is amended as follows:

The following definition is added before the definition of “Applicant”:

Act – 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 *et seq.* (2016 Repl.)).

The following definition is added before the definition of “Mandatory D.C. Social Work Laws and Regulations Review Course”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF SECOND PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 72 (Recreational Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to update and modernize the rules applicable to recreational therapists registered in the District and set standards for professional practice as well as continuing professional competency.

This rulemaking was published as a proposed rulemaking in the *D.C. Register* on June 17, 2016 at 63 DCR 8509. No written comments were received from the public during the thirty (30)-day comment period. It is being published again as proposed rulemaking to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 72, RECREATION THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended to read as follows:

CHAPTER 72 RECREATIONAL THERAPY

7200 APPLICABILITY

7200.1 This chapter applies to applicants and holders of a registration to practice recreational therapy. This chapter applies only to persons practicing under the title Recreational Therapist or Certified Therapeutic Recreation Specialist.

7200.2 Chapter 40 (General Rules) and Chapter 41 (Administrative Procedure) of this title shall supplement this chapter.

7201 TERM OF REGISTRATION

7201.1 Subject to § 7201.2, a registration issued pursuant to this chapter shall expire at 12:00 midnight on February 28th of each even numbered year.

7201.2 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a registration issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birthdate of the holder of the registration, or other date established by the Director.

7202 EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS FOR RECREATIONAL THERAPISTS

7202.1 An applicant for registration to practice as a recreational therapist may meet the education, training, and experience requirements by furnishing to the Director satisfactory proof that the applicant has been certified by the National Council for Therapeutic Recreation Certification (NCTRC) at the professional level of Certified Therapeutic Recreation Specialist (CTRS).

7202.2 The requirement of § 7202.1 shall not apply to recreational therapists who were registered in the District as of December 31, 1995 and maintain continuous registration without interruption.

7203 SCOPE OF PRACTICE OF REGISTERED RECREATIONAL THERAPIST OR CERTIFIED THERAPEUTIC RECREATION SPECIALIST

7203.1 An individual registered under this chapter as a recreational therapist may engage in the "practice of recreational therapy" as defined herein.

7203.2 As used in this chapter, the practice of "recreational therapy" means the use of the title Recreational Therapist by persons who meet the education and training requirements of § 7202.1; or the use of the title Certified Therapeutic Recreation Specialist by persons who meet the education and training requirements of § 7202.1. All persons registered pursuant to the act and these rules are entitled to use the title Recreational Therapist.

7203.3 The practice of recreational therapy shall include the following:

- (a) All direct patient or client services of assessment;
- (b) Planning;
- (c) Design;
- (d) Implementation;
- (e) Evaluation;
- (f) Documentation of specific interventions;

- (g) Management;
- (h) Consultation;
- (i) Research; and
- (j) Education for either individuals or groups that require specific therapeutic recreation or recreational therapy intervention with such services being provided for recreation resources and opportunities to improve health and well-being.

7204 LAWFUL PRACTICE

- 7204.1 Any person who practices or offers to practice recreational therapy in the District of Columbia as defined by § 7203.2 shall be registered pursuant to these rules.
- 7204.2 Except those who obtained registration to practice recreational therapy pursuant to § 7202.2, any person who practices or offers to practice recreational therapy in the District shall maintain, without interruption, his or her certification as CTRS by the NCTRC.
- 7204.3 A recreational therapist registered in the District shall use the letters “RRT” or “CTRS/RRT” in connection with the recreational therapist’s name or place of business to denote registration pursuant to the Act.

7205 CONTINUING EDUCATION REQUIREMENTS

- 7205.1 This section does not apply to applicants for an initial registration or applicants seeking a renewal of their registration for the first time after the initial registration. This section applies to applicants for a renewal, reactivation, or reinstatement of a registration for the term expiring February 28, 2018 and for all subsequent terms.
- 7205.2 A continuing education contact hour shall be valid only if it is part of a program or activity that the Board approves in accordance with § 7206 and § 7207.
- 7205.3 An applicant for registration renewal shall complete a minimum of twenty (20) contact hours of approved continuing education in accordance with § 7206 and § 7207 during the two (2) year period preceding the date the registration expires. The required continuing education shall also include two (2) hours of LGBTQ continuing education.
- 7205.4 The Board may require proof of completion of the required continuing education. Such proof shall include the following information:
- (a) The name and address of the sponsor of the program;

- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The date and time of attendance;
- (d) The number of contact hours claimed;
- (e) Verification by the sponsor of the person’s completion, by signature or stamp of the sponsor; and
- (f) The name of the person completing the program.

7205.5 If the registration of a recreational therapist expires while serving in the military whenever the United States is engaged in active military operations against any foreign power or hostile force, and if the required continuing education hours were not earned during the earning period, the recreational therapist shall be required to complete the required continuing education hours needed no later than six (6) months after discharge from active service, return to inactive military status, or return to the United States from an active war zone.

7205.6 The continuing education contact hours completed to satisfy the requirement of § 7205.5 shall not be counted toward meeting the continuing education requirement for the next or subsequent registration term.

7205.7 The credits received for each approved continuing education program shall be applied in full toward meeting the continuing education requirements for each registration term. The proration of continuing education credits over more than one (1) registration term shall not be allowed.

7205.8 A recreational therapist who is licensed, registered, or certified to practice in a jurisdiction other than the District shall meet the requirements of this section in order to be eligible for registration renewal in the District.

7206 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES

7206.1 The Board may approve continuing education programs and activities that contribute to the professional competence in the practice of recreational therapy and meet the other requirements of this section.

7206.2 The Board may approve continuing education programs and activities that are relevant to the practice or education of recreational therapists based on the following information:

- (a) Current subject matter with course description;

- (b) Content focus;
- (c) Learning outcomes;
- (d) Target audience;
- (e) Satisfactory completion of the course by the course participant; and
- (f) The number of contact hours or continuing education units.

7206.3 The Board may approve the following types of activities provided that they are consistent with the requirements of this chapter:

- (a) Activities sponsored by the state or local recreational therapy organizations, such as the Chesapeake Area Recreational Therapy Association (CHARTRA);
- (b) Activities sponsored, offered, or certified by the American Therapeutic Recreation Association (ATRA);
- (c) Activities approved for continuing education credit by boards of allied health;
- (d) Activities sponsored by disability-specific advocacy groups;
- (e) Activities sponsored by an accredited healthcare facility; or
- (f) Activities sponsored by an accredited college or university.

7206.4 The following activities shall not meet the requirement of § 7206.1 and may not be approved as continuing education required under this chapter:

- (a) Mandatory non-clinical in-service competency or education programs including, but not limited to, Basic Cardiac Life Support (BCLS) or Cardiopulmonary Resuscitation (CPR), first aid, infection control, emergency preparedness, or documentation update; and
- (b) Mandatory organization-specific trainings or programs required as part of job performance or development.

7206.5 The Board may grant continuing education credits for the following activities:

- (a) Serving as an author of self-study article or series;
- (b) Serving as an instructor or speaker at a conference program or an

academic course;

- (c) Serving as an instructor at a peer-reviewed or non-peer-reviewed seminar, workshop, or in-service training, whether in-person or web-based;
- (d) Serving as supervisor for persons authorized to practice pursuant to § 7211.2(c);
- (e) Serving as a clinical instructor for students of recreational therapy or students of any other health occupation;
- (f) Authoring or editing a published book, a published chapter in a book, or a published article in a professional journal or other nationally recognized publication;
- (g) Participating as a primary clinical internship educator for recreational therapy students;
- (h) Participating in board or committee work in connection with an agency or a non-profit organization whose mission is to promote and enhance the practice of recreational therapy; or
- (i) Participating in research as a principal investigator or research assistant.

7206.6 The person seeking continuing education credit shall bear the burden of establishing to the Board's satisfaction that any supervisory activities, professional volunteer activities, or services as an instructor, speaker, publisher or editor are eligible for continuing education credit and approval in accordance with § 7206.1.

7207 CONTINUING EDUCATION CREDITS

7207.1 The Board may grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) contact hour.

7207.2 For approved undergraduate or graduate courses, each semester hour of credit shall constitute fifteen (15) contact hours of continuing education, and each quarter hour of credit shall constitute ten (10) contact hours of continuing education.

7207.3 The Board may grant continuing education credit for the activities described in § 7206.5(a), (b), or (c) subject to the following restrictions:

- (a) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded for participants;

- (b) The maximum amount of credit which may be granted pursuant to this subsection is fifty percent (50%) of an applicant's continuing education requirement;
- (c) If an applicant had previously received credit in connection with a particular presentation, the Board shall not grant credit in connection with a subsequent presentation unless it involves either a different or a substantially modified program; and
- (d) The presentation shall have been completed during the period for which credit is claimed and includes documentation of the following:
 - (1) A copy of the official program or syllabus;
 - (2) The presentation title;
 - (3) The date of the presentation;
 - (4) The hours of the presentation;
 - (5) The type of audience addressed; and
 - (6) A verification of attendance signed by the sponsor.

7207.4 The Board may grant up to four (4) contact hours per renewal period for the activities described in § 7206.5(d). The supervisor shall submit a copy of the supervised practice letter and verification of supervision to receive continuing education credits.

7207.5 The Board may grant one (1) continuing education contact hour for each hour of clinical instruction, up to a maximum of six (6) contact hours per renewal period for the activities described in § 7206.5(e), with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates and duration of instruction; and
- (d) Signature of the program director.

7207.6 The Board may grant up to six (6) continuing education contact hours per renewal period for the activities described in § 7206.5(f), if the book, chapter, or article was published or accepted for publication during the period for which credit is claimed, and satisfactory proof is submitted to the Board.

7207.7 The Board may grant up to six (6) contact hours per renewal period for the activities described in § 7206.5(g), with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates of the internship; and
- (d) Signature page of student evaluation excluding evaluation scores and comments on student.

7207.8 The Board may grant up to three (3) continuing education contact hours for the activities described in § 7206.5(h), provided that such participation totaled no less than eighteen (18) hours during a registration term. The applicant shall provide the following documentation:

- (a) Name of the committee, board, agency or organization;
- (b) Purpose for service;
- (c) Description of duties and roles; and
- (d) Validation of service by an officer or representative of the organization.

7207.9 The Board may grant up to six (6) contact hours for the activities described in § 7206.5(i), provided that such participation is sufficiently documented.

7207.10 The Board may require proof of a recreational therapist's completion of continuing education at the completion of a renewal period. A recreational therapist shall:

- (a) Maintain the required proof of completion for each continuing competence activity as specified in these regulations; and
- (b) Retain documentation of a continuing competence activity for a minimum of two (2) years following the last day of the registration term for which the continuing competence activity was completed.

7208 CONTINUING EDUCATION AUDIT

7208.1 The Board may audit up to twenty percent (20%) of the number of registered recreational therapists to determine compliance with the continuing education contact hour requirements.

7208.2 Upon notification by the Board that a registrant has been selected for an audit, the registrant shall submit the required documentation within thirty (30) days of receipt of the notice.

7208.3 A registrant who fails to provide proof of continuing education compliance during an audit may be subject to an audit in the subsequent registration term.

7209 REACTIVATION

7209.1 The requirements of this section shall apply to persons whose registration under this Chapter has been placed in inactive status and seeks reactivation of their registration in accordance with § 511 of the Act, D.C. Official Code § 3-1205.11.

7209.2 An applicant for reactivation of a recreational therapy registration who has been inactive five (5) years or less and does not hold a registration or equivalent in any other jurisdiction shall submit proof pursuant to § 7205 of having completed ten (10) contact hours in clinical coursework in an approved continuing education program for each year that the applicant was not registered, up to a maximum of fifty (50) hours, two of which shall be LGBTQ continuing education.

7209.3 A reactivation applicant who has been inactive for more than 5 (five) years and who does not hold an active registration or equivalent in any other jurisdiction shall submit proof pursuant to § 7205 of having completed the following:

- (a) Ten (10) contact hours in clinical coursework in an approved continuing competence program for each year that the applicant was not registered, up to a maximum of fifty (50) hours. Twenty (20) of those contact hours shall have been completed within two (2) years prior to the date the application is submitted and include two (2) hours of LGBTQ continuing education; and
- (b) One hundred sixty (160) hours of clinical training supervised by a registered recreational therapist within the two (2) months prior to the date the application is submitted.

7209.4 A reactivation applicant who holds an active registration or equivalent in any other jurisdiction shall not be required to submit proof of continuing education contact hours with the reactivation application.

7210 REINSTATEMENT

7210.1 The requirements of this section shall apply to persons with expired registration who seek reinstatement within five (5) years in accordance with § 512(a) of the Act, D.C. Official Code § 3-1205.12(a).

7310.2 A person may not apply for reinstatement if his or her registration has expired for more than five (5) years.

7310.3 A reinstatement applicant may be eligible for reinstatement of his or her registration only if he or she holds a current, active certification as a Certified Therapeutic Recreation Specialist (CTRS) issued by the National Council for Therapeutic Recreation Certification (NCTRC) and submit satisfactory proof of ten (10) contact hours in clinical coursework in an approved continuing competence program for each year that the applicant was not registered, up to a maximum of fifty (50) hours. Twenty (20) of those contact hours shall have been completed within two (2) years prior to the date the application is submitted and shall include two (2) hours of LGBTQ continuing education.

7211 PRACTICE OF RECREATIONAL THERAPY BY A STUDENT OR PERSON SEEKING REGISTRATION

7211.1 A student of recreational therapy or a person seeking registration may practice only under the general supervision of a recreational therapist with valid, unrestricted registration in the District and in accordance with this section.

7211.2 Only the following person may practice under this section:

- (a) A student whose practice fulfills their educational requirements as described in § 103(c) of the Act, D.C. Official Code § 3-1201.03(c);
- (b) An applicant for registration whose application has been properly filed with the Board and is pending final approval by the Board; or
- (c) A person seeking reactivation of registration in accordance with § 7209.3(b) or a person seeking reinstatement of registration in accordance with § 7210.4(b).

7211.3 A supervisor of a person described in § 7211.2(b) or (c) shall, no less than two (2) weeks prior to the supervision begins, seek the authorization of the Board by providing the following information:

- (a) The supervisor's name and address;
- (b) The name of the person seeking registration;
- (c) The expected period of supervision;
- (d) The nature and location of the practice of the person registration; and
- (e) The attestation that the supervisor understands and intends to comply with the supervisory requirements under this chapter.

- 7211.4 A person seeking to practice under supervision may begin the supervised practice after the Board has approved and authorized the practice.
- 7211.5 Supervised practice authorized in accordance with this section shall not exceed sixty (60) days.
- 7211.6 A person engaged in supervised practice under this section shall identify himself or herself as a student or person practicing under supervision at all times including prior to the initiation of any practice with a client.
- 7211.7 Any of the following events shall result in an automatic and immediate termination of the authorized supervised practice:
- (a) The supervision is terminated for any reasons by either the supervisor or the supervisee; or
 - (b) An arrest or charge for a felony.
- 7211.8 A person practicing under supervision in accordance with this section shall not receive any compensation of any nature, directly or indirectly, from a patient but may receive a salary or other form of compensation from his or her supervisor based on the hours of practice performed.
- 7211.9 The supervisor shall be fully responsible for all supervised practice by the supervisee during the period of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the supervisee.
- 7211.10 A person authorized to practice under supervision pursuant to this section shall be subject to all applicable provisions of the Act and this chapter. The Board may deny his or her application for license or take any disciplinary action against him or her in accordance with Chapter 41 of this title if he or she has been found to have violated the Act or this chapter.

7212 CODE OF ETHICS

- 7212.1 A certified therapeutic recreation specialist or recreational therapist registered to practice in the District of Columbia shall adhere to the Code of Ethics established by the American Therapeutic Recreation Association as they may be amended from time to time.

7299 DEFINITIONS

- 7299.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Act – 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 *et seq.* (2016 Repl.)).

Board - The Board of Occupational Therapy, established by § 206 of the Act, D.C. Official Code § 3-1202.06.

Boards of allied health – boards as defined in D.C. Official Code § 3-1201.01(1A), or their equivalents in other jurisdictions.

Contact hour - At least fifty (50) minutes of continuing education credit.

Director – The Director of the Department of Health or any successor or assignee.

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Repl.)).

Recreational Therapy – Treatment services designed to restore, remediate and rehabilitate a person’s level of functioning and independence in life activities, to promote health and wellness as well as reduce or eliminate the activity limitations and restrictions to participation in life situations caused by illness or disabling condition. Recreational therapy also means “recreation therapy” as used in D.C. Official Code § 3-1209.02.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli Black, Administrative Assistant, at Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 73 (Occupational Therapy Assistants) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the occupational therapy assistants regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”), in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 73, OCCUPATIONAL THERAPY ASSISTANTS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 7304, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 7304.2 is amended to read as follows:

7304.2 A renewal applicant shall complete a minimum of twelve (12) contact hours of approved continuing education in accordance with §§ 7305 and 7306 during the two (2)-year period preceding the date the license expires. Beginning with the licensure term starting on October 1, 2017, the continuing education required in this section shall include two (2) hours of LGBTQ continuing education.

Subsection 7304.4 is amended to read as follows:

7304.4 A renewal applicant shall certify, under penalty of perjury, whether he or she has met the requirement of § 7304.2.

Section 7306, CONTINUING EDUCATION CREDITS, is amended as follows:

Subsection 7306.1 is amended to read as follows:

7306.1 One (1) contact hour of continuing education shall consist of at least fifty (50) minutes of learning time.

Section 7307, CONTINUING EDUCATION AUDIT, is amended as follows:**Subsection 7307.3 is amended to read as follows:**

7307.3 Licensees who fail to provide proof of continuing education compliance during an audit may be subject to an audit in the subsequent renewal cycle.

Subsection 7307.4 is repealed.**Section 7309, REACTIVATION, is amended as follows:****Subsection 7309.3 is amended to read as follows:**

7309.3 A reactivation applicant whose license has been inactive five (5) years or less who does not hold a license in any other jurisdiction shall submit proof in accordance with § 7304.5, of having completed six (6) contact hours of approved continuing education for each year that the applicant was in inactive status. Two (2) of the total contact hours of continuing education required under this section shall be LGBTQ continuing education.

Subsection 7309.4 is amended to read as follows:

7309.4 A reactivation applicant whose license has been inactive for more than five (5) years who does not hold an active license in any other jurisdiction shall submit proof pursuant to § 7304.5 of having completed the following:

- (a) Thirty (30) contact hours of approved continuing education in accordance with §§ 7305 and 7306; at least twelve (12) of the thirty (30) hours shall be completed within two (2) years prior to the date the application is submitted and two (2) of the total hours required shall be LGBTQ continuing education; and
- (b) One hundred sixty (160) hours of supervised practice in accordance with § 7316 within the two (2) months prior to the date the application is submitted.

Subsection 7309.6 is amended to read as follows:

7309.6 A reactivation applicant who holds an active license in any other jurisdiction and seeks to reactivate his or her license in the District more after more than five (5) years of inactive status shall submit proof, in accordance with § 7304.5, of having completed, within a period of twelve (12) months prior to the application, at least twelve (12) hours of approved continuing education, two of which shall be LGBTQ continuing education.

Section 7310, REINSTATEMENT, is amended as follows:

Subsection 7310.3 is amended to read as follows:

7310.3 A reinstatement applicant who holds an active license in any other jurisdiction shall submit proof pursuant to § 7304.5 of having completed six (6) contact hours of approved continuing education for each year that the applicant was not licensed in the District up to a maximum of thirty (30) hours. Twelve (12) contact hours shall have been completed within two (2) years prior to the date the application is submitted and two (2) contact hours shall be LGBTQ continuing education.

Subsection 7310.4 is amended to read as follows:

7310.4 A reinstatement applicant who does not hold an active license in any other jurisdiction shall submit proof:

- (a) Pursuant to § 7304.5, of having completed six (6) contact hours of approved continuing education for each year that the reinstatement applicant was not licensed. Twelve (12) contact hours must have been completed within two (2) years prior to the date the application is submitted and two (2) contact hours shall be LGBTQ continuing education; and
- (b) Pursuant to § 7316.3, of having completed one hundred sixty (160) hours of supervised practice in accordance with § 7316 within the two (2) months prior to the date the application is submitted.

Section 7399, DEFINITIONS, is amended as follows:**Subsection 7399.1 is amended as follows:****The following definition is added before the definition of “Board”:**

Approved continuing education – continuing education meeting the requirements of §§ 7305 and 7306.

The following definitions are added before the definition of “Occupational therapist”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Licensure term – the two (2)-year period between October 1 of each odd-numbered year to September 30 of the next odd-numbered year during

which a license issued pursuant to this chapter is valid in accordance with § 6301.1.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli Black, Administrative Assistant, at Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 75 (Massage Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the massage therapy regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”), in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 75, MESSAGE THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended to read as follows:

Section 7506, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

7506 CONTINUING EDUCATION REQUIREMENTS

- 7506.1 Subject to § 7506.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license and shall not apply to applicants for an initial licensure or the first renewal of a license
- 7506.2 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 7507.
- 7506.3 To qualify for the renewal of a license, an applicant shall have completed the following continuing education during the two (2)-year period preceding the date the license expires:
- (a) An applicant seeking to renew a license expiring on or before January 31, 2019 shall have completed twelve (12) hours of approved continuing education, which shall include three (3) hours of professional ethics and nine (9) hours of massage-related course work, six (6) of which shall be hands-on, massage technique course(s) completed in a live classroom setting; or:
 - (b) An applicant seeking to renew a license expiring on or after January 31, 2021 shall have completed fourteen (14) hours of approved continuing education, which shall include three (3) hours of professional ethics, nine

(9) hours of massage-related course work, six (6) of which shall be hands-on, massage technique course(s) completed in a live classroom setting, and two (2) hours of LGBTQ continuing education.

- 7506.4 To qualify for the reactivation of a license, an applicant whose license has been in inactive status in accordance with Section 511 of the Act, D.C. Official Code § 3-1205.11, and who does not possess a current and valid license to practice massage therapy in another jurisdiction in the United States shall have completed, during the two (2) years before the date of the application, fourteen (14) hours of approved continuing education, which shall include three (3) hours of professional ethics, nine (9) hours of massage-related course work, six (6) of which shall be hands-on, massage technique course(s) completed in a live classroom setting, and two (2) hours of LGBTQ continuing education.
- 7506.5 To qualify for the reactivation of a license, an applicant whose license has been in inactive status in accordance with Section 511 of the Act, D.C. Official Code § 3-1205.11, and who possesses a current and valid license or authorization to practice massage therapy in another jurisdiction of the United States shall be deemed to possess current competency and shall not be required to submit proof of continuing education.
- 7506.6 A licensee may obtain and remain in inactive status in accordance with D.C. Official Code § 3-1205.11 for no more than ten (10) years. A person whose license has been inactive for more than ten (10) years shall apply for and meet the requirements for licensure in accordance with § 7502.
- 7506.7 To qualify for reinstatement of a license, an applicant shall have completed the following continuing education:
- (a) An applicant whose license has expired two (2) years or less shall have completed fourteen (14) hours of continuing education as enumerated in § 7506.3(b) during the two (2) years' period preceding the date of the application; or
 - (b) An applicant whose license has expired more than two (2) years but less than five (5) years shall have completed twenty-six (26) hours of the following continuing education during the two (2) years' period preceding the date of the application:
 - (1) Six (6) hours of professional ethics;
 - (2) Eighteen (18) hours of massage-related course work provided by a Board approved provider of which twelve (12) hours shall be hands-on, massage-technique course(s) completed in a live classroom setting taught by appropriate instructors; and
 - (3) Two (2) hours of LGBTQ continuing education.

- 7506.8 An applicant under this section shall prove completion of required continuing education credits by submitting the following information with respect to each program:
- (a) The name and address of the sponsor of the program;
 - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
 - (c) The dates on which the applicant attended the program;
 - (d) The hours of credit claimed; and
 - (e) Verification by the sponsor of completion, by signature or stamp.
- 7506.9 The Board may periodically conduct a random audit of its active licensees to determine continuing education compliance. Any licensee selected for the audit shall submit proof of his or her continuing education to the Board within thirty (30) days of receiving notification of the audit. Failure to timely respond to the audit notice may subject the licensee to disciplinary action by the Board.

Section 7599, DEFINITIONS, is amended as follows:

Subsection 7599.1 is amended as follows:

The following definition is added before the definition of “Massage techniques”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“the Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 76 (Respiratory Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the respiratory therapy regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”), in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 76, RESPIRATORY THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 7606, RENEWAL, REACTIVATION, OR REINSTATEMENT OF A LICENSE; CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 7606.2 is amended to read as follows:

7606.2 This section does not apply to applicants for an initial license or applicants for the first renewal of a license after the initial grant.

Subsection 7606.5 is amended to read as follows:

7606.5 To qualify for the renewal of a license, an applicant shall have completed sixteen (16) hours of approved continuing education programs during the two (2)-year period preceding the date the license expires, which shall also meet the following requirement:

- (a) An applicant seeking to renew his or her license on or before January 31, 2019, shall have completed at least three (3) hours of ethics; or
- (b) An applicant seeking to renew his or her license after January 31, 2019 shall have completed two (2) hours of ethics and two (2) hours of LGBTQ continuing education.

Subsection 7606.14 is added to read as follows:

7606.14 One (1) CEU shall consist of sixty (60) minutes of educational, learning, or presentation time.

Section 7699, DEFINITIONS, is amended as follows:

Subsection 7699.1 is amended as follows:

The following definition is added after the definition of “Board”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Subsection 7699.2 is added to read as follows:

7699.2 The definitions of § 4099 of Chapter 40 of this title are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent by mail to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli Black, Administrative Assistant, at Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“the Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 77 (Marriage and Family Therapy) of Title 17 (Business, Occupations, and Professionals) 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*.

The purpose of this rulemaking is to revise the marriage and family therapy regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”), pursuant to Section 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 77, MARRIAGE AND FAMILY THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 7707, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 7707.1 is amended to read as follows:

7707.1 Except as provided in § 7707.2, this section shall apply to applicants for the renewal, reactivation, and reinstatement of a license.

Subsection 7707.2 is amended to read as follows:

7707.2 This section shall not apply to applicants for an initial license or applicants for the first renewal of a license after the initial grant.

Subsection 7707.4 is amended to read as follows:

7707.4 To qualify for the renewal of a license, an applicant shall have completed thirty (30) hours of approved continuing education during the two (2)-year period preceding the date the license expires, subject to the following requirements:

- (a) A minimum of fifteen (15) of the thirty (30) hours shall be completed in a live, face-to-face setting that provides for direct, real-time interaction between presenter(s) and participants;
- (b) Six (6) hours of the thirty (30) hours shall be in ethics; and

- (c) Applicants seeking the renewal of a license on or before December 31, 2018, may complete, as part of the remaining twenty-four (24) hours, continuing education in current and emerging issues in marriage and family therapy such as the study of:
- (1) Non-traditional families;
 - (2) Domestic violence;
 - (3) HIV;
 - (4) Aging;
 - (5) End-of-life issues;
 - (6) Addiction and psychopharmacology; or
 - (7) Trauma; or
- (d) Applicants seeking the renewal of a license after December 31, 2018, shall have completed two (2) hours of LGBTQ continuing education and, as part of the remaining twenty-two (22) hours, may complete continuing education in current and emerging issues in marriage and family therapy as enumerated in subparagraph (c) above.

Section 7799, DEFINITIONS, is amended as follows:

Subsection 7799.1 is amended as follows:

The following definition is added before “AAMFT-approved supervisor”:

Act – 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 *et seq.* (2016 Repl.)).

The following definition is added before “Marriage and family therapist”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of section 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

All persons desiring to comment on the subject matter of this proposed rulemaking action should submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli Black, Administrative Assistant, at Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the addresses listed above during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 82 (Physical Therapy Assistants) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the physical therapy assistant regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”), in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 82, PHYSICAL THERAPY ASSISTANTS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 8206, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:

8206 CONTINUING EDUCATION REQUIREMENTS

- 8206.1 Subject to § 8206.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license.
- 8206.2 This section shall not apply to applicants for an initial license or applicants for the first renewal of a license.
- 8206.3 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 8207.
- 8206.4 To qualify for the renewal of a license, an applicant shall have completed thirty (30) hours of approved continuing education credit during the two (2)-year period preceding the date the license expires. Beginning with the licensure period starting on February 1, 2019, the required thirty (30) hours of continuing education shall also include two (2) hours of LGBTQ continuing education.
- 8206.5 Beginning with the licensure period ending January 31, 2015, not more than one-half (1/2) of the total number of hours of continuing education required for

renewal, reinstatement, or reactivation of a license may be obtained from online courses, home study, or any distance education.

- 8206.6 To qualify for reactivation of a license, a person in inactive status within the meaning of Section 511 of the Act (D.C. Official Code § 3-1205.11) who does not possess a valid, active physical therapy assistant license in any jurisdiction of the United States shall submit proof of having completed, within one (1) year prior to the submission of the reactivation application, fifteen (15) hours of approved continuing education for each year that the applicant was in inactive status up to a maximum of seventy-five (75) hours and two (2) hours of LGBTQ continuing education .
- 8206.7 To qualify for reactivation of a license, a person in inactive status within the meaning of Section 511 of the Act (D.C. Official Code 3-1205.11) who maintains a valid, active license in another jurisdiction of the United States shall establish his or her current competency to the Board's satisfaction, which may include proving completion of approved continuing education within a period of no more than five (5) years preceding the date of the reactivation application. An applicant under this subsection shall also complete two (2) hours of LGBTQ continuing education.
- 8206.8 To qualify for reinstatement of a license, an applicant shall submit proof of having completed, no more than two (2) years before the date of the reinstatement application, fifteen (15) hours of approved continuing education credit for each year that the applicant was not licensed in the District and two (2) hours of LGBTQ continuing education.
- 8206.9 Except as provided in § 8206.10, an applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:
- (a) The name and address of the sponsor of the program;
 - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
 - (c) The dates on which the applicant attended the program;
 - (d) The hours of credit claimed; and
 - (e) Verification by the sponsor of completion, by signature or stamp.
- 8206.10 Applicants for the renewal of a license shall only be required to prove completion of the required continuing education credits by submitting proof pursuant to § 8206.9 if required to do so as part of the random audit, or if otherwise requested to do so by the Board.

8206.11 The Board may periodically conduct a random audit of licensees to determine compliance with the continuing education requirements. A licensee who is selected to participate in the Board's continuing education audit shall, within thirty (30) days after receiving notice of the selection, submit proof of having completed the required continuing education credits during the two (2)-year period immediately preceding the date the license expires.

Section 8299, DEFINITIONS, is amended as follows:

Subsection 8299.1 is amended as follows:

The following definition is added before the definition of "Applicant":

Act – 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 *et seq.* (2016 Repl.)).

The following definition is added before the definition of "Physical therapist":

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression ("LGBTQ") meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

The following definition is added after the definition of "Practice of physical therapy":

Valid, active license – a license to practice physical therapy in any jurisdiction that is currently valid and has been valid during the relevant period.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor’s Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the intent to adopt the following amendments to Chapter 86 (Psychology Associate) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the psychology associate regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”), in accordance with § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

Chapter 86, PSYCHOLOGY ASSOCIATE, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 8606, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:

8606 CONTINUING EDUCATION REQUIREMENTS

- 8606.1 Subject to § 8606.2, this section applies to applicants for the renewal, reactivation, or reinstatement of a registration.
- 8606.2 This section does not apply to applicants for an initial registration or applicants for the first renewal after the initial grant of a registration.
- 8606.3 To qualify for the renewal of a registration, an applicant shall have completed thirty (30) hours of approved continuing education credits during the two (2)-year period preceding the date the registration expires, which shall also meet the following requirements:
- (a) At least fifteen (15) hours of approved continuing education shall be completed in live program(s); and
 - (b) An applicant seeking to renew his or her registration on or before December 31, 2017 shall complete three (3) hours each in ethics and cultural competence; or

- (c) An applicant seeking to renew his or her registration after December 31, 2017 shall complete three (3) hours of ethics and two (2) hours of LGBTQ continuing education.

8606.4 An applicant in inactive status within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11) who submits an application to reactivate a registration that has been inactive up to two (2) years shall submit proof of having completed thirty (30) hours of approved continuing education, including three (3) hours of ethics and two (2) hours of LGBTQ continuing education. An applicant whose registration was inactive for more than two (2) years shall retake and pass the District examination and shall complete the number and type of continuing education credits required by the Board which shall be determined on a case-by-case basis.

8606.5 An application for reinstatement of a registration that has expired for two (2) years or less shall submit proof of having completed thirty (30) hours of approved continuing education, including three (3) hours of ethics and two (2) hours of LGBTQ continuing education. An applicant whose registration has expired for more than two (2) years shall retake and pass the District examination and complete the number and type of continuing education credits required by the Board, which shall be determined on a case-by-case basis.

8606.6 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 8607.

8606.7 An applicant under this section shall prove completion of the required continuing education credits by submitting with the application the following information with respect to each continuing education program or activity:

- (a) The name and address of the sponsor of the program;
- (b) The name of the program and its location;
- (c) A description of the subject matter covered;
- (d) A complete schedule with time allotments for each topic or subtopic and lunch or breaks, and the name of each instructor or speaker;
- (e) The date(s) on which the applicant participated in the program;
- (f) The hours of continuing education credit claimed; and
- (g) A copy of the continuing education completion verification document that includes the sponsor's signature and seal.

8606.8 An applicant under this section shall prove completion of continuing education course work that was audited by submitting with the application a signed statement from the instructor on college stationery for each class attended.

Section 8699, DEFINITIONS, is amended as follows:

Subsection 8699.1 is amended as follows:

The following definition is added before the definition of “Practice of psychology”:

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Repl.)).

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent by mail to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, or by email to Angli Black, Administrative Assistant, at Angli.Black@dc.gov, (202) 442-5977. Copies of the proposed rules may be obtained from the Department during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays, at the addresses listed above.

**THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

NOTICE OF PROPOSED RULEMAKING

The Interim Executive Director of the Office of Lottery and Charitable Games, pursuant to the authority set forth in Section 424a of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790, Pub. L. 93-198; D.C. Official Code § 1-204.24(a) (2014 Repl.)), as amended by the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (Pub. L. No. 109-356, § 201, 120 Stat. 2019; D.C. Official Code §§ 1-204.24a(c)(6) (2014 Repl.)); Section 4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code §§ 3-1306(a), 3-1322, 3-1324, and 3-1327 (2012 Repl.)); and Office of the Chief Financial Officer Financial Management Control Order No. 15-11, issued April 14, 2015 (appointing Tracey Cohen Interim Executive Director), hereby gives notice of the intent to amend Chapter 12 (Bingo, Raffle, Monte Carlo Night Party and Suppliers' Licenses) of Title 30 (Lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking decreases the required bond amounts for bingo and Monte Carlo Night Party Suppliers licenses and creates a combined bond amount for licensees that provide both bingo and Monte Carlo Night party supplies.

The Interim Executive Director hereby gives thirty (30) days' notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

Chapter 12, BINGO, RAFFLE, MONTE CARLO NIGHT PARTY AND SUPPLIERS' LICENSES, of Title 30 DCMR, LOTTERY AND CHARITABLE GAMES, is amended as follows:

Subsection 1208.8 of Section 1208, SUPPLIERS' LICENSES, is amended to read as follows:

1208.8 The Agency shall require a bond from a surety company licensed to do business in the District from each applicant for a suppliers' license at the time the application is made and shall guarantee that all goods or services are delivered to the licensed organizations. The following is the suppliers' license bond schedule:

- (a) A Monte Carlo Night Party suppliers bond shall be seven thousand five hundred dollars (\$7,500.00)
- (b) A bingo suppliers bond shall be two thousand five hundred dollars (\$2,500.00).

- (c) A combined Monte Carlo Night and bingo suppliers bond shall be ten thousand dollars (\$10,000.00), provided that each activity is listed on the bond.

All persons desiring to file comments on the proposed rulemaking action should submit comments in writing not later than thirty (30) days' after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Antar Johnson, Senior Counsel, 2235 Shannon Place SE, Washington, D.C. 20020, or e-mailed to antar.johnson@dc.gov, or filed online at www.dcregs.gov. Additional copies of these proposed rules may be obtained at the address stated above.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), pursuant to the authority set forth in Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub.L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)); and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000; hereby gives notice of the intent to amend Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR) by adding a new Chapter 44 (Bulk Sales).

The proposed addition of Chapter 44 (Bulk Sales) provides guidance as to the types of taxes subject to bulk sale notice requirements.

OTR gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

A new Chapter 44, BULK SALES, is added to Title 9 DCMR, TAXATION AND ASSESSMENTS, to read as follows:

CHAPTER 44 BULK SALES**4400 BULK SALES**

4400.1 The term “assets” as used in D.C. Official Code § 47-4463 means without limitation, all assets, whether real or personal, tangible or intangible, including rights to property, of a business, that transfer to a purchaser, transferee or assignee in a single transaction or series of related transactions other than in the ordinary course of business.

Example 1: The sale of a hotel where the hotel owns the real estate being conveyed.

Assets shall include, without limitation, the real property, any licenses held by the hotel (such as a liquor license, franchise license, etc.), inventory, furnishings, equipment, materials or supplies, and flag or trademark.

Example 2: The sale of a restaurant where the restaurant leases the space it occupies.

Assets shall include, without limitation, any licenses held by the restaurant (such as a liquor license, franchise license, trademark, etc.), the leasehold or license interest (including renewals), inventory, furnishings, equipment, materials or supplies.

4400.2 For any tax determined to be due from the seller to the District of Columbia, failure to provide the notice as required pursuant to D.C. Official Code § 47-

4461, or comply with the provisions of D.C. Official Code § 47-4462 and remit payment of taxes owed to the Office of Tax and Revenue (OTR), shall make the purchaser personally liable for payment to the District of Columbia of the taxes determined to be due from the seller to the extent of the fair market value of the assets transferred.

- 4400.3 Taxes that are subject to the notice required under D.C. Official Code § 47-4461 shall include all taxes or fees imposed by the District determined to be due from the seller, including, without limitation, sales, personal property, franchise, income, possessory interest, employment taxes and ballpark fees.
- 4400.4 Compliance with the provisions of D.C. Official Code §§ 47-4461 or 47-4462 shall not affect liability for taxes or assessments imposed on the real property of the seller, since such taxes or assessments are a lien against the real property under D.C. Official Code § 47-1331. OTR shall not be required to inform a purchaser of possible liabilities for any such real property taxes or assessments, or for taxes which are not administered by OTR. Real property taxes or assessments (if applicable) shall be stated on a Certificate of Taxes, issued pursuant to a proper request therefor, under D.C. Official Code § 47-405.
- 4400.5 The notice of bulk sale required pursuant to D.C. Official Code § 47-4461 shall be sent by registered or certified mail to Chief, Collection Division, Compliance Administration, OTR.

Comments on this proposed rulemaking should be submitted to Sonia Kamboh, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Sonia Kamboh may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4th Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6500; or, email at sonia.kamboh@dc.gov. Copies of this rule and related information may be obtained by contacting Sonia Kamboh as stated herein.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211(b) (2012 Repl. & 2016 Supp.)), hereby gives notice of the adoption of emergency and proposed rules to amend Chapter 7 (General Operating Requirements) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking amends 23 DCMR §§ 718.2 and 718.3 by reducing the percentage of distribution of subsidies paid by the Alcoholic Beverage Regulation Administration (ABRA) to the Metropolitan Police Department (MPD) from seventy percent (70%) to sixty percent (60%) when covering the costs incurred by Alcoholic Beverage Control (ABC) licensees from MPD officers working reimbursable details under the MPD Reimbursable Detail Subsidy Program (“RDO Program” or “Program”). The rulemaking also amends 23 DCMR § 718.2 to include pub crawls among the types of events for which MPD can be reimbursed under the Program as a result of MPD officers working a reimbursable detail.

By way of background, the DRD Program assists licensed establishments in defraying the costs of retaining off-duty MPD officers to patrol the surrounding area of an establishment or an outdoor special event or pub crawl event for the purpose of maintaining public safety, including the remediation of traffic congestion and the safety of public patrons, during their approach and departure from the establishment or special event or pub crawl event. Over the past several years, the Board has revised the reimbursable detail coverage percentages on an as needed basis. For example, previous Program revisions have included modifying the percentage of the reimbursed subsidy amount, the number of hours worked by the MPD, the number of nights of the week worked by MPD, and the addition of federal and District holidays, and certain holiday weekends.

The rules were modified again as recently as February 19, 2016, to increase the number of days covered by the RDO Program from two (2) days to seven (7) days a week, and to increase the reimbursement percentage from fifty percent (50%) to seventy percent (70%).

The Board has observed an increase in the number of pub crawl events taking place in the District of Columbia. In Fiscal Year 2016, the Board approved twenty-four (24) pub crawl applications. This is a significant increase in comparison to previous years. Although a source of entertainment, pub crawls pose safety risks to the public. It is for this reason that the Mayor and District of Columbia Council included in the Fiscal Year 2017 Budget, to allow for the expansion of the RDO Program to include the pub crawls. In order to ensure ABRA’s regulations comport with current law, the Board deems it necessary to amend 23 DCMR § 718.2 to include pub crawl events among the Programs which may participate in the RDO Program.

Notwithstanding the expansion of the RDO Program to include pub crawls, the overall funding levels for the Program will remain the same in Fiscal Year 2017. Therefore, the Board finds it necessary to reduce the Program's reimbursement percentage from seventy percent (70%) to sixty percent (60%). Given the importance of this Program to public safety, the Board will continue to regularly monitor the Program's funding and make any necessary adjustments to the distribution of subsidies to cover the costs incurred by licensees.

Pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, effective October 2, 1968 (82 Stat. 1026; D.C. Official Code § 2-505(c) (2012 Repl. & 2016 Supp.)), the Board has determined that emergency action is necessary for the immediate preservation of health, safety, and welfare of District of Columbia residents. Specifically, emergency action is necessary to immediately readjust spending levels of the Program for the remainder of Fiscal Year 2017 so that ABRA can continue to reimburse MPD for a percentage of the cost incurred by licensees for MPD officers working reimbursable details. As previously discussed, the Program is essential for protecting the public's safety and welfare.

These emergency and proposed rules were adopted by the Board on January 25, 2017, by a vote of six (6) to zero (0), to take effect on March 1, 2017. The emergency rules will remain in effect for up to one hundred twenty (120) days from adoption, expiring June 5, 2017, unless earlier superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Board also gives notice of its intent to take final rulemaking action to adopt these rules on a permanent basis in not fewer than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Repl.), these emergency and proposed rules will be transmitted to the Council of the District of Columbia (Council) for a ninety (90) day period of review. The final rules shall not become effective absent approval by the Council.

Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Section 718, REIMBURSABLE DETAIL SUBSIDY PROGRAM, is amended by replacing Subsections 718.2 and 718.3 to read as follows:

718.2 ABRA will reimburse MPD sixty percent (60%) of the total cost of invoices submitted by MPD to cover the costs incurred by licensees for MPD officers working reimbursable details on Sunday through Saturday nights. The hours eligible for reimbursement for on-premises retailer licensees shall be 11:30 p.m. to 5:00 a.m. ABRA will also reimburse MPD sixty percent (60%) of the total costs of invoices submitted by MPD to cover the costs incurred for pub crawl events and for outdoor special events where the Licensee has been approved for a One Day Substantial Change License or a Temporary License. The hours eligible for an outdoor special event operating under a One Day Substantial Change License or a Temporary License or a pub crawl event operating under a pub crawl license shall be twenty-four (24) hours a day.

718.3 MPD shall submit to ABRA on a monthly basis invoices documenting the sixty percent (60%) amount owed by each licensee. Invoices will be paid by ABRA to MPD within thirty (30) days of receipt in the order that they are received until the subsidy program's funds are depleted.

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., 4th Floor, Washington, D.C. 20009. All persons desiring to comment on the emergency and proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*, to the above address or via email to martha.jenkins@dc.gov.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl.) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl. & 2016 Supp.)), hereby gives notice of the adoption of, on an emergency basis, and the intent to adopt, on a permanent basis, amendments to Section 926 of Chapter 9 (Medicaid Program), and Sections 1913-1916, 1918-1920, 1922, 1924-1934, 1936, and 1939 of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities), of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The Department on Disability Services (DDS), Developmental Disabilities Administration (DDA) operates the Medicaid Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) under the supervision of DHCF. The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for a five-year period beginning November 20, 2012. An amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-307.02(a)(8)(E) (2016 Repl.)), and subsequently CMS approved the amendment effective September 24, 2015.

Under 29 DCMR § 1901.2, which was published in the *D.C. Register* on August 12, 2016 at 63 DCR 010445, “the Medicaid provider reimbursement rate(s) to be paid for the [ID/DD] Waiver services identified in Subsection 1901.1 shall be posted on the District of Columbia Medicaid fee schedule at www.dc-medicaid.com. DHCF shall also publish a notice in the *D.C. Register* which reflects the change in the reimbursement rate(s) for [ID/DD] Waiver services.” Consistent with the regulatory requirements, DHCF published notice in the *D.C. Register* on December 2, 2016 at 63 DCR 014958, of posting of the Medicaid Fee Schedule for the ID/DD Waiver to reflect the changes to the reimbursement rates for services available to participants under the ID/DD Waiver on the Medicaid fee schedule to align with ID/DD Waiver Year 5 and include the 2017 D.C. Living Wage.

These emergency and proposed rules are necessary to amend the reimbursement rates provisions in the services available under the ID/DD Waiver in order to avoid confusion. Specifically, as identified in 29 DCMR § 1901.1, the reimbursement rate provisions in the following rules are being amended:

- (1) Environmental Accessibility Adaptation Services, 29 DCMR § 926;
- (2) One-Time Transitional Services, 29 DCMR § 1913;

- (3) Vehicle Modification Services, 29 DCMR § 1914;
- (4) Host Home without Transportation Services, 29 DCMR § 1915;
- (5) In-Home Supports Services, 29 DCMR § 1916;
- (6) Creative Arts Therapies Services, 29 DCMR § 1918;
- (7) Behavioral Support Services, 29 DCMR § 1919;
- (8) Day Habilitation Services, 29 DCMR § 1920;
- (9) Employment Readiness Services, 29 DCMR § 1922;
- (10) Family Training Services, 29 DCMR § 1924;
- (11) Individualized Day Supports Services, 29 DCMR § 1925;
- (12) Occupational Therapy Services, 29 DCMR § 1926;
- (13) Personal Emergency Response System (PERS) Services, 29 DCMR § 1927;
- (14) Physical Therapy Services, 29 DCMR § 1928;
- (15) Residential Habilitation Services, 29 DCMR § 1929;
- (16) Respite Services, 29 DCMR § 1930;
- (17) Skilled Nursing Services, 29 DCMR § 1931;
- (18) Speech, Hearing and Language Services, 29 DCMR § 1932;
- (19) Supported Employment Services – Individual and Small Group Services, 29 DCMR § 1933;
- (20) Supported Living Services, 29 DCMR § 1934;
- (21) Wellness Services, 29 DCMR § 1936; and
- (22) Companion Services, 29 DCMR § 1939.

The ID/DD Waiver serves some of the District’s most vulnerable residents. In order to prevent impediments that adversely affect access to quality Medicaid services and accurate reimbursements for services delivered by Medicaid providers, DHCF must have the ability to periodically update and adjust the fee schedule. Accordingly, emergency action is necessary for the immediate preservation of the health, safety and welfare of persons receiving these services.

The emergency rulemaking was adopted on April 3, 2017, and became effective on that date. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until August 1, 2017, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsections 926.13 and 926.14, of Section 926, ENVIRONMENTAL ACCESSIBILITY ADAPTATION SERVICES, are amended to read as follows:

- 926.13 Reimbursement for EAA services shall be limited to a maximum dollar amount per participant over a five-year period and shall be limited to modifications not to exceed two (2) residences in a five-year period. Exceptions to the five-year limitations in this section on EAA services may be approved by DDS on a case by

case basis, with adequate supporting documentation outlined in Subsection 926.14, based on demonstrated need, but shall be pre-authorized.

- 926.14 Evaluation or home inspection shall be reimbursed at a not to exceed dollar amount per inspection, but shall only be payable as a separate service if the home is found structurally unsound or otherwise inappropriate for the EAA modification requested. Reimbursement of all other EAA services shall require:
- (a) Written documentation of the building inspection;
 - (b) Development of a construction plan;
 - (c) Acquisition of permits;
 - (d) Purchase of materials; and
 - (e) Labor for construction, renovation, or installation services to be provided.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, is amended as follows:

Subsection 1913.12 of Section 1913, ONE-TIME TRANSITIONAL SERVICES, is amended to read as follows:

- 1913.12 Medicaid reimbursement for OTT services shall be limited to a maximum dollar amount per person for the duration of the ID/DD Waiver period as a one-time, non-recurring expense.

Subsections 1914.12 and 1914.13 of Section 1914, VEHICLE MODIFICATION SERVICES, are amended to read as follows:

- 1914.12 Medicaid reimbursable VM services shall be available for modification of no more than two (2) vehicles over the course of five (5) years and shall not exceed a maximum dollar amount, unless the person receives service authorization from DDS through the exception process in § 1914.13.
- 1914.13 Exceptions to the maximum dollar limit and/or the two (2) vehicle limit over the course of five (5) years may be approved by DDS on a case-by-case basis by the DDS Medicaid Waiver Supervisor or a designated Developmental Disabilities Administration (DDA) staff member for persons who demonstrate need. The request for exception must be in writing and must specify the amount requested above the maximum dollar limit; describe the demonstrated need for the exception; and include supporting documentation.

Subsections 1915.27 and 1915.29, of Section 1915, HOST HOME WITHOUT TRANSPORTATION SERVICES, are amended to read as follows:

1915.27 The daily inclusive reimbursement rate for host home without transportation services shall be broken down by the person's acuity level into the basic support rate, the moderate support rate, and the intensive support rate. The host home without transportation services reimbursement rate shall include:

- (a) All training for host home workers;
- (b) Programmatic supplies;
- (c) Oral/topical medication management;
- (d) General and administrative fees for ID/DD Waiver services;
- (e) Relief of the caregiver and emergency support;
- (f) All direct support costs based on the needs of the person; and
- (g) Additional supports provided by a DSP for up to twenty (20) hours per week.

...

1915.29 Persons with extraordinary needs may be eligible to receive a specialized reimbursement rate not to exceed a maximum dollar amount per day, subject to DDS approval.

Subsections 1916.18 and 1916.19 of Section 1916, IN-HOME SUPPORTS SERVICES, are amended to read as follows:

1916.18 In-home supports services shall not be used to provide supports that are normally provided by medical professionals.

1916.19 In-home supports services, including those provided in the event of a temporary emergency, shall be billed at the unit rate of fifteen (15) minutes and shall not exceed eight (8) hours per twenty-four (24) hour day. A standard unit of fifteen (15) minutes requires a minimum of eight (8) minutes of continuous service to be billed. Reimbursement shall be limited to those time periods in which the provider is rendering services directly to the person.

Subsections 1918.15 and 1918.16 of Section 1918, CREATIVE ARTS THERAPIES, are amended to read as follows:

- 1918.15 Any combination of Creative Arts Therapies services shall be limited to a maximum dollar amount per person, per calendar year, and delivered in accordance with the person's ISP and Plan of Care.
- 1918.16 The reimbursement rate for Creative Arts Therapies services shall be billed:
- (a) Per person per forty-five (45) minutes for art, dance, drama or music therapy in a group not to exceed four (4); and
 - (b) Per person per forty-five (45) minutes for art, dance, drama or music therapy as an individual service.

Subsections 1919.37 through 1919.40 of Section 1919, BEHAVIORAL SUPPORT SERVICES, are amended to read as follows:

- 1919.37 The Medicaid reimbursement rate for each diagnostic assessment shall be a flat fee rate and the assessment shall be at least three (3) hours in duration, and include the development of the DAR and accompanying worksheet.
- 1919.38 There shall be a Medicaid reimbursement rate for behavioral support services provided by professionals identified in Subsection 1919.29, which shall be billed at the unit rate of fifteen (15) minutes. A standard unit of fifteen (15) minutes requires a minimum of (8) minutes of continuous service to be billed.
- 1919.39 There shall be a Medicaid reimbursement rate for behavioral support services provided by paraprofessionals identified in Subsection 1919.30, which shall be billed at the unit rate of fifteen (15) minutes. A standard unit of fifteen (15) minutes requires a minimum of eight (8) minutes of continuous service to be billed.
- 1919.40 There shall be a Medicaid reimbursement rate for one-to-one behavioral support services provided by DSPs, which shall be billed at the unit rate of fifteen (15) minutes. A standard unit of fifteen (15) minutes requires a minimum of eight (8) minutes of continuous service to be billed.

Subsections 1920.24 through 1920.27 of Section 1920, DAY HABILITATION SERVICES, are amended to read as follows:

- 1920.24 There shall be a Medicaid reimbursement rate for regular day habilitation services. Services shall be provided for a maximum of eight (8) hours per day. The billable unit of service for regular day habilitation services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service.
- 1920.25 There shall be a Medicaid reimbursement rate for day habilitation one-to-one services. The billable unit of service for day habilitation one-to-one services shall

be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service.

1920.26 There shall be a Medicaid reimbursement rate for small group day habilitation services. The billable unit of service for small group day habilitation shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service.

1920.27 For persons who live independently or with family and select to receive a meal, the rate is increased by a dollar amount per day that the person receives a meal, and an additional dollar amount per day that the person receives a meal, if that meal is delivered by a third-party vendor.

Subsection 1922.26 of Section 1922, EMPLOYMENT READINESS SERVICES, is amended to read as follows:

1922.26 The billable unit of service for Medicaid reimbursable employment readiness services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes in order to be able to bill a unit of service.

Subsection 1924.16 of Section 1924, FAMILY TRAINING SERVICES, is amended to read as follows:

1924.16 The billable unit of service for Medicaid reimbursable family training services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes in order to be able to bill a unit of service.

Subsection 1925.23 of Section 1925, INDIVIDUALIZED DAY SUPPORTS, is amended to read as follows:

1925.23 Individualized day supports shall be billed at the unit rate established for the staffing ratio noted in the service authorization. There shall be a Medicaid reimbursement rate for 1:1 staffing ratio and 1:2 staffing ratio. For persons who live independently or with family and select to receive a meal, the rate is increased by a dollar amount per day that the person receives a meal. This service shall not exceed one thousand, five hundred and sixty (1,560) hours per year or six thousand two hundred and forty (6,240) units annually. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of services to bill for one (1) unit of service.

Subsection 1926.15, of Section 1926, OCCUPATIONAL THERAPY SERVICES, is amended to read as follows

1926.15 There shall be a Medicaid reimbursement rate for occupational therapy services. The billable unit of service shall be fifteen (15) minutes.

Subsection 1927.20 of Section 1927, PERSONAL EMERGENCY RESPONSE SYSTEM SERVICES, is amended to read as follows:

1927.20 There shall be a Medicaid reimbursement rate for PERS services as follows:

- (a) A flat fee rate for the initial installation, training, and testing; and
- (b) A flat fee rate for the monthly rental, maintenance, and service fee.

Subsection 1928.17 of Section 1928, PHYSICAL THERAPY SERVICES, is amended to read as follows:

1928.17 There shall be a Medicaid reimbursement rate for physical therapy services. The billable unit of service shall be fifteen (15) minutes.

Subsections 1929.24 and 1929.25 of Section 1929, RESIDENTIAL HABILITATION SERVICES, are amended to read as follows:

1929.24 There shall be a Medicaid reimbursement rate for residential habilitation services for a GHPID with four (4) persons as follows:

- (a) The Basic Support Level 1 daily rate for a direct care staff support ratio of 1:4 for all awake and overnight hours;
- (b) The Moderate Support Level 2 daily rate for a direct care staff support ratio of 1:4 for awake overnight and 2:4 during all awake hours when persons are in the home and adjusted for increased absenteeism;
- (c) The Enhanced Moderate Support Level 3 daily rate for a direct care staff support ratio of 2:4 staff awake overnight and 2:4 during all awake hours when persons are in the home and adjusted for increased absenteeism;
- (d) The Intensive Support daily rate for a direct care staff support ratio of 2:4 staff awake overnight and 3:4 during all awake hours when persons are in the home and adjusted for increased absenteeism; and
- (e) The Intensive Support daily rate for twenty-four (24) hour licensed practical nursing services.

1929.25 There shall be a Medicaid reimbursement rate for residential habilitation services for a GHPID with five (5) to six (6) persons as follows:

- (a) The Basic Support Level 1 daily rate for a direct care staff support ratio of 1:5 or 1:6 staff awake overnight and 2:5 or 2:6 during all awake hours when persons are in the home;
- (b) The Moderate Support Level 2 daily rate for a direct care staff support ratio of 2:5 or 2:6 staff awake overnight and 2:5 or 2:6 during all awake hours when persons are in the home and adjusted for increased absenteeism;
- (c) The Enhanced Moderate Support Level 3 daily rate for a staff support ratio of 2:5 or 2:6 staff awake overnight and 3:5 or 3:6 during all awake hours when persons are in the home and adjusted for increased absenteeism;
- (d) The Intensive Support daily rate for increased direct care staff support for sleep hours to 2:5 or 2:6 for staff awake overnight support and 4:5 or 4:6 during all awake hours when persons are in the home and adjusted for increased absenteeism; and
- (e) The Intensive Support daily rate for twenty-four (24) hour licensed practical nursing services.

Subsections 1930.14 and 1930.18, of Section 1930, RESPITE SERVICES, are amended to read as follows:

1930.14 Medicaid reimbursement for hourly respite services shall be limited to seven hundred twenty (720) hours per calendar year.

...

1930.18 Medicaid reimbursement for daily respite services shall be limited to thirty (30) days per calendar year.

Subsection 1931.24 of Section 1931, SKILLED NURSING SERVICES, is amended to read as follows:

1931.24 The Medicaid reimbursement rates for skilled nursing services and extended skilled nursing services shall be the same as the rates for skilled nursing services under the Medicaid State Plan as set forth in the Medicaid fee schedule. The Medicaid reimbursement rate for an initial assessment is a flat fee rate. The initial assessment for skilled nursing services shall be used for new admissions and any significant health condition changes that may warrant changes in a person's supports and services. The Medicaid reimbursement rate for quarterly reassessments and supervisory visits shall be the RN rate for each fifteen (15) minute unit of service not to exceed a total of eight (8) units of service per reassessment or supervisory visit.

Subsections 1932.17 and 1932.18 of Section 1932, SPEECH, HEARING, AND LANGUAGE SERVICES, are amended to read as follows:

- 1932.17 There shall be a Medicaid reimbursement rate for a speech, hearing and language assessment. The billable unit of service shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.
- 1932.18 There shall be a Medicaid reimbursement rate for speech, hearing and language services. The billable unit of service for speech, hearing and language therapy services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.

Subsection 1933.42 through 1933.45 of Section 1933, SUPPORTED EMPLOYMENT SERVICES - INDIVIDUAL AND SMALL GROUP SERVICES, are amended to read as follows:

- 1933.42 Medicaid reimbursable intake and assessment activities shall be billed at the unit rate. This service shall not exceed three-hundred and twenty (320) units or eighty (80) hours annually. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. There shall be a Medicaid reimbursement rate for individual supported employment intake and assessment activities (a) if performed by a professional listed in Subsection 1933.26; and (b) if performed by a paraprofessional listed in Section 1933.28 under the supervision of a professional.
- 1933.43 Medicaid reimbursable job preparation, developmental and placement activities shall be billed at the unit rate. This service shall not exceed nine hundred and sixty (960) units or two-hundred and forty (240) hours annually for both individual and group services, combined. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill for one (1) unit of service. There shall be a Medicaid reimbursement rate for individual supported employment job preparation, developmental and placement activities (a) if performed by a professional listed in Section 1933.26; and (b) if performed by a paraprofessional listed in Subsection 1933.28 under the supervision of a professional. For small group supported employment job preparation, developmental and placement activities, there shall be a Medicaid reimbursement rate for each person in a group of two (2) to four (4) people enrolled in the Waiver.
- 1933.44 Medicaid reimbursable on the job training and support activities shall not exceed three hundred and sixty hours (360) or one thousand, four hundred and forty (1,440) units per ISP year, unless additional hours are prior authorized by DDS. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. There

shall be a Medicaid reimbursement rate for individual supported employment job training and support activities (a) if performed by a professional listed in Subsection 1933.26; and (b) if performed by a paraprofessional listed in Subsection 1933.28 under the supervision of a professional. For small group supported employment on the job training and support activities, there shall be a Medicaid reimbursement rate for each person in a group of two (2) to four (4) people enrolled in the Waiver.

1933.45 Medicaid reimbursable long-term follow-along activities shall not exceed one thousand four hundred eight (1,408) units per ISP year. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. There shall be a Medicaid reimbursement rate for both professionals and paraprofessionals for individual supported employment long-term follow-along activities. For small group supported employment long-term follow-along activities, there shall be a Medicaid reimbursement rate for each person in a group of two (2) to four (4) people enrolled in the Waiver.

Subsections 1934.37 and 1934.38 of Section 1934, SUPPORTED LIVING SERVICES, are amended to read as follows:

1934.37 There shall be a Medicaid reimbursement rate for supported living services without transportation as follows:

- (a) Basic Support Level 1, which provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 during all hours when individuals are awake and receiving services;
- (b) Basic Support Level 2, which provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours when the residents are receiving services;
- (c) Moderate Support Level 1, which provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage;
- (d) Moderate Support Level 2, which provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake coverage overnight;
- (e) Intensive Support Level 1, which provides support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving

services and adjusted for increased absenteeism from day and employment programs;

- (f) Intensive Support Level 2, which provides support for a home with three (3) residents and a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs;
- (g) Basic Support Level 1, which provides asleep overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 during all hours when individuals are awake and receiving services;
- (h) Basic Support Level 2, which provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 1:2 during all awake hours when the residents are receiving services;
- (i) Moderate Support Level 1, which provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage overnight;
- (j) Moderate Support Level 2, which provides support in a SLR with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are in the home and adjusted for increased absenteeism;
- (k) Intensive Support Level 1, which provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are in the home and adjusted for increased absenteeism;
- (l) Supported living periodic services, as described under Subsection 1934.6, which shall be authorized up to sixteen (16) hours per day without transportation. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. ;
- (m) A specialized service rate for supported living with skilled nursing services, described under Subsection 1934.5, when there are at least three (3) people living in the SLR and residing in a home that requires skilled nursing services and demonstrates extraordinary medical needs; and

- (n) A specialized service rate for twenty-four hour one-to-one supported living service for a person living in a single occupancy SLR, described under Subsection 1934.4, for asleep overnight staff and for one-to-one awake overnight staff.

1934.38

There shall be a Medicaid reimbursement rate for supported living services with transportation as follows:

- (a) Basic Support Level 1, which provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 during all hours;
- (b) Basic Support Level 2, which provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours;
- (c) Moderate Support Level 1, which provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage;
- (d) Moderate Support Level 2, which provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake coverage overnight;
- (e) Intensive Support Level 1, which provides support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs;
- (f) Intensive Support Level 2, which provides support for a home with three (3) residents and a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs;
- (g) Basic Support Level 1, which provides asleep overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 staff asleep overnight coverage and 1:2 staff awake coverage when residents are receiving services;
- (h) Basic Support Level 2, which provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 for

staff awake overnight and 1:2 during all awake hours when the resident is receiving services;

- (i) Moderate Support Level 1, which provides awake overnight daily rate for a home with two (2) residents and a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage overnight;
- (j) Moderate Support Level 2, which provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are receiving services and adjusted for increased absenteeism from day and employment programs;
- (k) Intensive Support Level 1, which provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are receiving services and adjusted for increased absenteeism from day and employment programs;
- (l) Supported living periodic services, described under Subsection 1934.6, which shall be authorized up to sixteen (16) hours per day with transportation. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service;
- (m) A specialized service rate for supported living with skilled nursing services, described under Subsection 1934.5, when there are at least three (3) people living in the SLR and residing in a home that requires skilled nursing services and demonstrates extraordinary medical needs; and
- (n) A specialized service rate for twenty-four hour one-to-one supported living service for a person living in a single occupancy SLR, described under Subsection 1934.4 for asleep overnight staff and for one-to-one awake overnight staff.

Subsection 1936.23 of Section 1936, WELLNESS SERVICES, is amended to read as follows:

1936.23 There shall be a Medicaid reimbursement rate for wellness services for:

- (a) Massage Therapy;
- (b) Sexuality Education;
- (c) Fitness Training;

- (d) Small Group Fitness Training;
- (e) Nutrition Counseling; and
- (f) Bereavement Counseling.

Subsection 1939.16 of Section 1939, COMPANION SERVICES, is amended to read as follows:

1939.16 Medicaid reimbursable companion services shall be billed at the unit rate. Companion services shall not exceed eight (8) hours per twenty-four (24) hour day. A standard unit of fifteen (15) minutes requires a minimum of eight (8) minutes of continuous service to be billed. Medicaid reimbursement shall be limited to those time periods in which the provider is rendering services directly to the person. There shall be a Medicaid reimbursement rate for:

- (a) Companion services provided at a one-to-one ratio; and
- (b) Companion services provided in a small group of no more than one-to-three per person.

Comments on the emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2012 Repl. & 2016 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of Chapter 42 entitled, “Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities” (EPD Waiver) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The current EPD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for an initial five-year period beginning January 4, 2012. An amendment to the EPD Waiver was approved by the Council through the Medical Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-307.02(a)(8)(A) (2016 Repl.)). The amendment was approved by CMS, with an effective date of October 20, 2015. Subsequently, the renewal of the EPD Waiver was approved by the Council through the Department of Health Care Finance and Department on Disability Services Medical Assistance Program Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 1-307.02(a)(10)(A) (2016 Repl.)). CMS granted a brief, temporary extension of the EPD Waiver on December 19, 2016 and approved the renewal with an effective date of April 4, 2017. These emergency and proposed rules modify standards for existing services and establish standards for new services provided to participants in the EPD Waiver.

An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on November 4, 2016 at 63 DCR 013719. The initial emergency and proposed rules incorporated all changes in the approved amendment to the EPD Waiver, as follows:

The initial emergency and proposed rules were promulgated to ensure that the District is in compliance with various standards approved under the EPD Waiver amendment including the use of a standardized conflict-free assessment tool for determining nursing facility level of care to establish EPD Waiver eligibility, compliance with CMS’ federal requirements for the delivery of home and community-based services (HCBS) in “settings” that meet the federal definition, at 42 C.F.R. § 441.301(c)(4), conforming with CMS’ federal requirements for developing a person-centered service plan at 42 C.F.R. §§ 441.301(c)(1), and adding three (3) new services to the EPD Waiver to enhance the menu of services available to a EPD Waiver beneficiary.

Specifically, the initial emergency and proposed rules amended the previously published final rules by: (1) amending eligibility requirements by requiring a score of nine (9) or higher on DHCF’s standardized assessment tool; (2) mandating that Assisted Living providers,

Community Residence Facilities, and Adult Day Health providers meet all of the federal HCBS “settings requirements”; (3) imposing new standards for the development and implementation of person-centered service plans; (4) updating and clarifying responsibilities of case managers and requiring that EPD Waiver providers and case managers meet new federal conflict-free standards; (5) identifying reportable incidents and complaints and establishing procedures for incident and complaint reporting; (6) establishing requirements for transitional case management services to support continuity of care when an EPD Waiver beneficiary is temporarily institutionalized and specifying that EPD Waiver participants will not be terminated from the Waiver program if they are institutionalized for a period not to exceed one hundred and twenty (120) consecutive days; (7) establishing a process for independent assessment of need and authorization for PCA services to eliminate any conflicts of interest that may exist when an EPD Waiver provider is assessing the need for the amount, duration and scope of services and also delivers services; (8) updating provider reimbursement rates consistent with the approved Waiver amendment; (9) adding three (3) new services - adult day health services, occupational therapy, and physical therapy - to the list of Waiver services; (10) establishing requirements for the delivery of Participant-Directed Services (PDS) that correspond to the approved EPD Waiver; and (11) updating definitions for terms and phrases used in this chapter. New rules establishing detailed provisions for the delivery of Participant-Directed Services (PDS) that coordinate with the approved EPD Waiver were promulgated separately upon implementation of the PDS program. The initial emergency and proposed rules governing PDS services were published in the *D.C. Register* on May 20, 2016 at 63 DCR 007732, and the second emergency and proposed rules governing PDS services were published in the *D.C. Register* on December 9, 2016 at 63 DCR 015171.

These second emergency and proposed rules are being promulgated in order to incorporate changes made in response to comments received on the initial emergency and proposed rulemaking, as well as changes reflecting updated content in the waiver renewal.

DHCF only received one set of comments on the initial emergency and proposed rulemaking from Disability Rights DC at University Legal Services (ULS). DHCF carefully considered all of ULS’ comments and made substantive changes in response as described below:

ULS made the following comments related to notices issued to beneficiaries in cases of intended actions to deny, discontinue, discharge, suspend, reduce, transfer or terminate EPD Waiver services:

ULS asserted that Section 4202, governing appeal rights for beneficiaries, fails to specify that notices of service termination or reductions must be legally sufficient to comply with requirement of federal and D.C. Law. ULS stated that prior to suspension, reduction, or termination of EPD Waiver services, DHCF must send written notice directly to beneficiaries that explains the nature of the service reduction or termination or suspension in plain language, the reasons for the action, the legal bases for the action, and instructions on how and when to appeal and who to contact for assistance to ensure the beneficiary receives ongoing services.

The existing language in Section 4202 specifies that DHCF send written notice to beneficiaries that contains an explanation of the intended suspension, reduction or termination, the reasons for the action, the legal bases for the action, and an explanation of the beneficiary’s right to appeal

and instructions for doing so. Section 4202 also states that the notice must include the timeframe for requesting an appeal to ensure that current services are preserved. If a hearing request is filed within the timeframe explained in the notice, Section 4202 makes clear that DHCF notify the beneficiary's service providers that a hearing request is pending and that the current level of service is to be preserved pending resolution of the appeal. Therefore, the beneficiary does not need to take any separate action to ensure that services are continued during the pendency of the appeal, and does not need to contact any other party.

The commenter also asserted that Subsection 4202.2 should be amended to include the following provision: Providers must continue to provide services for beneficiaries who challenge the reduction, termination or suspension of services until the administrative proceeding is concluded and the appeal is resolved.

The provision cited by the commenter, which pertains to notices sent by providers, currently includes the following language as (f): "The circumstances under which the applicant or beneficiary's current level of services will be continued if a hearing is requested." Subsection 4202.3 also includes similar language for notices sent by DHCF. DHCF uses this language across its rulemakings to indicate that providers must continue to furnish a beneficiary's current level of service if the beneficiary files a hearing request within the required timeframe. The notices clearly set out the deadline by which a beneficiary must file a hearing request in order for services to be preserved at the current level. Accordingly, DHCF has made no changes to Section 4202 as the current language addresses the issues raised by ULS.

ULS made the following comments related to conditions and procedures for discharges, transfers, suspensions and terminations of EPD Waiver services:

ULS asserted that Subsection 4205.11(b) is unconstitutionally vague because it does not adequately define the "conditions" under which a provider is "unable to meet the needs of the beneficiary" thereby granting providers unfettered discretion to terminate a beneficiary for subjective and discriminatory reasons and failing to notify current and prospective participants seeking DHCF services of the ground of their discharge. ULS also stated that it is unclear why or how a provider that is licensed by the District to provide personal care aide (PCA) services would be unable to meet the ADL needs of beneficiaries who are eligible for PCA services and that if a home health provider is unable to provide the level of services it contracted with DHCF to provide, DHCF should decertify that provider rather than permitting the agency/provider to terminate services to beneficiaries. ULS also suggested that to the extent that this section is referring to beneficiaries who require nurse visits to assist with their ADLs and IADLs, DHCF should adopt nurse delegation to permit PCAs to perform essential tasks including administering medication, conducting finger stick blood glucose testing, and feeding by gastric tubes.

Additionally, ULS asserted that the scope of this subsection is overbroad and unreasonable and that by failing to outline a clear and limited set of "conditions" warranting termination of services for a beneficiary, DHCF would be allowing providers to invoke wide range of "conditions" that a provider can interpret at will to wrongfully terminate a beneficiary. ULS noted that if a beneficiary is unsatisfied with the level of services or treatment by a specific provider instead of permitting a provider to discharge the beneficiary, DHCF should first assist

the beneficiary to initiate a grievance against the provider, and try to mitigate the conflicts, and that ultimately, beneficiaries should have the choice to transfer to a new provider agency.

DHCF initially notes that this provision only relates to discharges and transfers, not terminations. Subsection 4205.12(a) contains language to ensure that providers demonstrate that all appropriate steps were taken to attempt to remediate the situation leading to a discharge or transfer, including meeting with the beneficiary to resolve conflicts and providing staff training to resolve any staff complaints. Furthermore, Subsection 4205.14 requires providers to take a variety of actions to ensure that the beneficiary's health and safety are not threatened during a discharge or transfer, and to document all actions taken to ensure that a discharge or transfer will have no adverse effect on the beneficiary. As each beneficiary has specific and sometimes complex clinical and/or behavioral needs, a particular provider may not be best suited to meet a particular beneficiary's needs, despite meeting all required certification requirements from the Department of Health and DHCF. DHCF believes that the stringent processes in place to ensure that a beneficiary is not adversely impacted by any discharge or transfer initiated by a provider and that all appropriate attempts at remediation are made prior to a provider requesting a discharge or transfer are adequate to guard against any attempted abuse of this provision by providers. Furthermore, DHCF needs to allow for flexibility in this provision to ensure that beneficiaries are only served by providers who can meet their particular needs, which vary widely. Therefore, DHCF does not believe any change to this provision is warranted.

Regarding nurse delegation, DHCF can only allow individuals providing PCA services to perform the tasks that are outlined in the Medicaid State Plan and that are allowed under the individual's certification by the Department of Health. DHCF does not have the authority to make the requested change.

ULS also asserted that prior to initiating steps to discharge, transfer, suspend or terminate a beneficiary's EPD Waiver services, DHCF and its providers must attempt to remediate the situation. Thus, ULS stated, Subsection 4205.12(a) must apply not only to discharges and transfers, but also to suspensions and service terminations, all actions which have serious implications on the level and/or continuation of a beneficiary's EPD Waiver services. ULS also stated that the regulations should specify that providers and case managers must report all remediation attempts in writing to DHCF.

DHCF agrees with the commenter that this provision should include suspensions and terminations, and has revised the language accordingly. As noted above, DHCF believes that the current language addresses the commenter's request to ensure remediation attempts are appropriately documented and available for review by DHCF.

The changes in these second emergency and proposed rules reflecting updated content in the waiver renewal, which except as noted below are effective on April 4, 2017, are as follows:

DHCF added a new service, Community Transition Services, under the waiver renewal. Community Transition services are non-recurring set-up expenses for individuals who are transitioning from an institution or other long term care facility to a more integrated and less

restrictive community setting. Allowable expenses are those necessary to enable an individual to establish a basic household that does not constitute room and board.

The renewal application modifies Participant-Directed Community Support (PDCS) and Individual-Directed Goods and Services to clarify that a participant may receive the full number of assessed hours of PDCS services, without regard to the limitations governing hours of Medicaid State Plan agency-based PCA services, and to require execution of a Medicaid provider agreement for all vendors of individual-directed goods and services. These modifications are based on the District's experience during its initial year of enrollment of waiver participants in the participant-directed services option.

The Case Management service definition was modified to reflect changes to streamline the recertification process for enrollment in the EPD Waiver as explained below.

The recertification process for enrollment in the EPD Waiver was streamlined to reduce the burden on beneficiaries and ensure continuity of care. Specifically, once determined initially eligible for the waiver based upon a registered nurse conducted face-to-face, conflict free assessment of functional, cognitive and skilled care needs, a new face-to-face reassessment of needs shall only be required if there has been a change in the beneficiary's health status. Effective April 1, 2018, if there is no change in health status, the case manager shall attest that the individual continues to meet the nursing facility level of care and communicate the attestation to DHCF's designated entity for a certification of level of care.

Provider qualification criteria were modified to include training requirements. All Assisted Living, Adult Day Health, Community Residence Facility and Home Care Agency providers of EPD Waiver services shall complete mandatory training in Person-Centered Thinking, Supported Decision-Making, Supporting Community Integration, and any other topics as determined by DHCF.

The assisted living rate reimbursement methodology was modified to reflect a new daily rate structure. The assisted living reimbursement methodology was amended and increases provider payments from sixty (\$60) per day to one hundred and fifty five (\$155) per day.

Lastly, under the renewal, DHCF may impose one or more alternative sanctions against an EPD Waiver provider in response to a complaint, incident report, or upon recommendation by DHCF's Division of Program Integrity or the EPD Waiver Monitoring unit. The sanctions include: (1) imposition of a corrective action plan; (2) imposition of a cap on enrollment; (3) denial of new admissions; (4) imposition of an enhanced monitoring plan; (5) withholding of provider reimbursements; or (6) temporary suspension of the provider from participation in the EPD Waiver program.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of EPD Waiver participants who are in need of EPD Waiver services. The EPD Waiver serves some of the District's most vulnerable residents. The approved EPD Waiver includes new services and includes new provider participation requirements and service delivery criteria. These changes collectively enhance service delivery and coordination, and ensure access to more

streamlined services under the Waiver by more qualified providers, and are thereby integral to preserving the health, safety and welfare of these Waiver participants.

This emergency rulemaking was adopted on April 3, 2017 and became effective on that date. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until August 1, 2017, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES of Title 29 DCMR, PUBLIC WELFARE, is deleted in its entirety and amended to read as follows:

CHAPTER 42 HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES

4200 GENERAL PROVISIONS: IDENTIFICATION OF SERVICES; PROGRAM RESPONSIBILITIES; AND SERVICE SETTING REQUIREMENTS

4200.1 The following Home and Community-Based (HCB) Waiver services are included in this chapter, consistent with the regulations set forth herein:

- (a) Case management services;
- (b) Personal Care Aide (PCA) services;
- (c) Personal Emergency Response System (PERS) services;
- (d) Respite services;
- (e) Homemaker services;
- (f) Chore aide services;
- (g) Assisted living services;
- (h) Environmental Accessibility Adaptation (EAA) services;
- (i) Adult Day Health services;
- (j) Physical Therapy services;
- (k) Occupational Therapy services;

- (l) Individual-Directed Goods and Services;
- (m) Participant-Directed Community Supports services; and
- (n) Community transition services.

4200.2 DHCF or its designee shall be the first point of contact for applicants who choose to receive EPD Waiver Services. DHCF or its designee shall assist an applicant with the completion of all documents and processes needed to apply for the EPD Waiver including, but not limited to, assisting the applicant with obtaining a face-to-face assessment and obtaining a determination of financial eligibility from DHCF's designee.

4200.3 DHCF or its designee shall conduct face-to-face assessments to determine if the applicant meets the level of care requirements in accordance with Section 4201 of this chapter.

4200.4 DHCF or its designee shall perform the following operational functions:

- (a) Review the Person-Centered Service Plan (PCSP) and prior-authorize the services recommended in the PCSP; and
- (b) Review requests for change in services and determine if they should be approved; and
- (c) Prior-authorize approved changes in services.

4200.5 The EPD Waiver services described in this chapter shall be administered by the Department of Health Care Finance (DHCF), Long-Term Care Administration.

4200.6 All Adult Day Health, Assisted Living, and Community Residence Facility settings shall meet the HCB Setting Requirements pursuant to 42 CFR § 441.301(c)(4) which require that settings:

- (a) Be chosen by the beneficiary receiving EPD Waiver services;
- (b) Ensure the beneficiary's right to privacy, dignity, and respect, and freedom from coercion and restraint;
- (c) Be physically accessible to the beneficiary and allow him or her access to all common areas;
- (d) Support the beneficiary's community integration and inclusion, including relationship-building and maintenance, support for self-determination and self-advocacy;

- (e) Provide opportunities for the beneficiary to seek employment and meaningful non-work activities in the community;
- (f) Provide information on beneficiary rights;
- (g) Optimize the beneficiary's initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and choices for personal interaction;
- (h) Facilitate the beneficiary's choices regarding services and supports, and the provision of services;
- (i) Create personalized daily schedules for each beneficiary receiving supports that includes activities that align with the beneficiary's goals, interest, and preferences, and are reflected in his or her PCSP;
- (j) Provide opportunities for the beneficiary to engage in community life;
- (k) Provide opportunities to receive services in the community to the same degree as individuals not receiving Medicaid HCBS;
- (l) Control over the beneficiary's personal funds and bank accounts; and
- (m) Allow visitors at any time except as indicated in the beneficiary's PCSP, based on his or her assessed needs.

4200.7 In addition to the requirements referenced under Subsection 4200.6, all Assisted Living and Community Residence Facility settings shall:

- (a) Be integrated in the community;
- (b) Provide opportunities for the beneficiary to engage in community life;
- (c) Allow full access to the greater community, such as opportunities to seek employment, and access to public libraries with appropriate oversight and assistance to the same extent as access is available to persons who do not receive Medicaid HCBS;
- (d) Be leased in the names of the people who are being supported. If this is not possible, then the Assisted Living or Community Residence Facility provider must ensure that each beneficiary has a legally enforceable residency agreement or other written agreement that, at a minimum, provides the same responsibilities and protections from eviction that tenants have under the District's landlord and tenant law. This applies equally to leased and provider owned properties; and

- (e) Develop and adhere to policies which ensure that each beneficiary receiving services has the right to the following:
 - (1) Privacy in the beneficiary's personal space, including entrances that are lockable by the beneficiary (with staff having keys as needed);
 - (2) Freedom to furnish and decorate his or her personal space (except for a beneficiary receiving Respite Daily services);
 - (3) Control over his or her personal funds and bank accounts;
 - (4) Privacy for telephone calls, texts and emails; and
 - (5) Access to food at any time.

4200.8 Any deviations from the requirements in Subsection 4200.7(e) must be supported by a specific assessed need, which is justified in the beneficiary's written PCSP, and reviewed and approved as a restriction by the case manager in the PCSP.

4201 ELIGIBILITY

4201.1 Individuals shall be deemed eligible for the HCB Waiver prior to the receipt of the HCB services described in this chapter.

4201.2 To be eligible for the HCB Waiver services described in this chapter, beneficiaries shall:

- (a) Require the level of care furnished in a nursing facility as determined by DHCF's Long Term Care Services and Supports Contractor via standardized assessment tools in accordance with Subsections 4201.4 and 4201.5;
- (b) Agree to participate in the waiver program by signing Waiver Beneficiary Freedom of Choice forms to elect to receive services in home and community-based settings rather than institutional settings;
- (c) Be aged sixty-five (65) or older, or be aged eighteen (18) and older with one (1) or more physical disabilities;
- (d) Not be inpatients of a hospital, nursing facility or intermediate care facility in accordance with Subsection 4201.3;
- (e) Be financially eligible for long term care services and supports in accordance with the requirements set forth in Chapter 98 (Financial

Eligibility for Long Term Care Services and Supports) of Title 29 DCMR;
and

- (f) Reside in the District of Columbia in community settings such as natural homes or approved Community Residential Facilities or EPD Waiver assisted living facilities.

4201.3 For purposes of eligibility, an inpatient shall be defined as a beneficiary who is institutionalized for a period greater than one hundred and twenty (120) consecutive days.

4201.4 A Registered Nurse (R.N.) hired by or under contract to DHCF or its designee shall conduct a face-to-face assessment to determine if a beneficiary or applicant meets a nursing facility level of care. The assessment shall utilize a standardized assessment tool which will include an assessment of the individual's support needs across three domains including:

- (a) Functional - impairments including assistance with activities of daily living such as bathing, dressing, eating or feeding;
- (b) Skilled Care - sensory impairments, other health diagnoses and the need for skilled nursing or other skilled care (e.g., wound care, infusions); and
- (c) Behavioral - communications impairments including the ability to understand others, presence of behavioral symptoms such as hallucinations, or delusions.

4201.5 Completion of the assessment shall yield a final total score determined by adding up the individual scores from the three domains. To be eligible for EPD Waiver services a beneficiary or applicant must obtain a score of nine (9) or higher which equates to a nursing home level of care.

4201.6 Eligibility for all EPD Waiver services shall be recertified on an annual basis in accordance with any procedures established by DHCF in this chapter.

4202 APPEAL RIGHTS FOR APPLICANTS/BENEFICIARIES

4202.1 Applicants and beneficiaries shall receive advance notice and shall have the opportunity to request a Fair Hearing if:

- (a) They are found ineligible for participation in the EPD Waiver based on the criteria set forth in Subsection 4201.2;
- (b) They are not given the choice between HCB waiver services or institutional care;

- (c) They are denied the choice of service(s) from a qualified and willing provider in accordance with 42 CFR § 431.51; or
- (d) If DHCF or its designee takes action to deny, discontinue, suspend, reduce, or terminate services, or dis-enroll a beneficiary or applicant from the EPD Waiver Program.

4202.2 An EPD Waiver provider shall issue a written notice in cases of intended actions to discontinue, discharge, suspend, transfer, or terminate services to any applicant or beneficiary in accordance with the requirements sets forth in Section 4205. The notice shall be provided at least thirty (30) days prior to the effective date of the proposed action and shall provide the following information:

- (a) The intended action;
- (b) The reason(s) for the intended action;
- (c) Citations to the law(s) and regulations supporting the intended action;
- (d) A list of EPD waiver standards supporting the decision;
- (e) An explanation of the applicant or beneficiary's right to request a hearing;
- (f) The circumstances under which the applicant or beneficiary's current level of services will be continued if a hearing is requested; and
- (g) A copy of the directory of other EPD waiver providers.

4202.3 DHCF or its designee shall issue a written notice in cases where it intends to take action to deny, discontinue, discharge, suspend, or reduce Waiver services, or dis-enroll applicants or beneficiaries from the EPD Waiver program. The notice shall be issued at least thirty (30) calendar days prior to the effective date of the proposed action and shall state the following information:

- (a) The intended action;
- (b) The reason(s) for the intended action;
- (c) Citations to the law(s) and regulations supporting the intended action;
- (d) An explanation of the individual's right to request a hearing; and
- (e) The circumstances under which the individual's current level of services will be continued if a hearing is requested.

4203**CASE MANAGEMENT SERVICES REQUIRED**

4203.1 As a condition of participation in the EPD Waiver services program, each beneficiary shall receive case management services which meet the requirements of Sections 4222 – 4224.

4204 WRITTEN PERSON-CENTERED SERVICE PLAN REQUIRED (PCSP)

4204.1 Services under the EPD Waiver program shall be provided to eligible beneficiaries pursuant to a written Person-Centered Service Plan (PCSP) developed for each individual.

4204.2 The PCSP shall be developed by the Case Manager in full consideration of the beneficiary's needs, preferences, strengths, and goals, which are key hallmarks of person-centered planning as defined in Section 4223. A PCSP shall be subject to the approval of DHCF or its designee.

4204.3 Except in the circumstances outlined in Subsection 4204.7, a PCSP shall be required for the initiation and provision of any EPD Waiver service and shall be reviewed by the Case Manager at least quarterly to ensure that services are delivered to meet the established goals.

4204.4 A PCSP shall be updated and revised at least annually, pursuant to the outcome of an assessment and a determination of needs or whenever a change in a beneficiary's health needs warrants updates to the plan.

4204.5 A PCSP shall, at a minimum, address and document the following:

- (a) The beneficiary's, strengths, positive attributes, and preferences for plan development at the beginning of the written plan including:
 - (1) Consideration of the beneficiary's significant milestones, and important people in the beneficiary's life; and
 - (2) The beneficiary's preferences in order to tailor the plan to reflect any unique cultural or spiritual needs or be developed in a language or literacy level that the beneficiary and representative can understand;
- (b) The beneficiary's goals, including:
 - (1) Consideration of the beneficiary's current employment, education, and community participation along with aspirations for changing employment, continuing education, and increasing level of community participation; and
 - (2) How the goals tie to the amount, duration, and scope of services

that will be provided;

- (c) List of other contributors selected by the beneficiary and invited to engage in planning and monitoring of the PCSP;
- (d) End of life plan, as appropriate;
- (e) Medicaid and non-Medicaid services and supports preferred by the beneficiary, including supports from family, friends, faith-based entities, recreation centers, or other community resources;
- (f) The specific individuals, health care providers, or other entities currently providing services and supports;
- (g) Potential risks faced by the beneficiary and a risk-mitigation plan to be addressed by the beneficiary and his or her interdisciplinary team;
- (h) Approaches to be taken to prevent duplicative, unnecessary, or inappropriate services;
- (i) Assurances regarding the health and safety of the beneficiary, and if restrictions on his or her physical environment are necessary, descriptions and inclusion of the following:
 - (1) Explicit safety need(s) with explanation of related condition(s);
 - (2) Positive interventions used in the past to address the same or similar risk(s)/safety need(s) and assurances that the restriction will not cause harm to the beneficiary;
 - (3) Necessary revisions to the PCSP to address risk(s) or safety need(s), including the time needed to evaluate effectiveness of the restriction, results of routine data collection to measure effectiveness, and continuing need for the restriction; and
 - (4) Beneficiary's or representative's understanding and consent to proposed modification(s) to the restrictions; and
- (j) Components of self-direction (if the beneficiary has chosen self-directed delivery under the *Services My Way* program, set forth in Chapter 101 of Title 29 DCMR).

4204.6 Upon completion of development of the PCSP, the Case Manager shall ensure the following:

- (a) The PCSP receives final approval and signature from all those who

participated in its planning and development, including the Case Manager and the beneficiary or beneficiary's representative if applicable; and

- (b) All contributors and others who were included in the PCSP development receive a copy of the completed plan or any specific component of the plan, as determined by the beneficiary.

4204.7 A beneficiary temporarily may access waiver services in the absence of a DHCF approved PCSP under the following circumstances:

- (a) DHCF determines a delay in the receipt of services would put the beneficiary's health and safety at risk; or
- (b) DHCF determines services are needed to effectuate a timely discharge from a hospital or nursing facility.

4204.8 If waiver services are provided in accordance with Subsection 4204.7, a PCSP shall be completed within thirty (30) days of the date that services were initiated.

4205 INITIATING, CHANGING, DISCHARGING/SUSPENDING, TRANSFERS OR TERMINATIONS

4205.1 Initiating services means a request to add services that has been approved as part of a beneficiary's PCSP.

4205.2 A change in service shall mean a request to modify the type, amount, duration, or scope of services based on the beneficiary's current level of functioning, which is supported by the assessment tool.

4205.3 A discharge shall mean a request to release a beneficiary from a particular service provider.

4205.4 A transfer shall mean a request whereby a beneficiary is moved from one service provider to another service provider.

4205.5 A suspension shall mean ending the delivery of services to a beneficiary for a temporary period not to exceed thirty (30) calendar days.

4205.6 A termination shall mean the discontinuation of services under the Waiver or a disenrollment from the EPD Waiver Program.

4205.7 The only grounds for disenrollment from the EPD Waiver Program are the following:

- (a) The beneficiary no longer meets the financial eligibility criteria;

- (b) The beneficiary no longer meets the required level of care as supported by the assessment tool;
- (c) The beneficiary expires;
- (d) The beneficiary has moved out of the District of Columbia;
- (e) The beneficiary remains institutionalized for a period that is expected to exceed one hundred and twenty (120) consecutive days;
- (f) The beneficiary or the beneficiary's authorized representative requests disenrollment, in writing, from the EPD Waiver ; and
- (g) The beneficiary has failed to provide the case management agency with recertification documents or cooperate with the case manager to ensure that level of care evaluations are completed.

4205.8 A case manager may coordinate the receipt and subsequent approval by DHCF or its designee for all program modification requests. These include requests to initiate, change, terminate, or suspend services and to transfer or discharge from a service provider.

4205.9 The beneficiary, the beneficiary's authorized representative, family member or a service provider may recommend to DHCF or its designee one or more of the following program modifications: the initiation of a new service; a change in approved services; a transfer; or a service termination.

4205.10 The beneficiary, the beneficiary's authorized representative, a service provider or the beneficiary's case manager may make requests to DHCF or its designee to authorize a discharge or suspension.

4205.11 Conditions for a discharge or requesting a transfer consist of the following:

- (a) A beneficiary is unsatisfied with the services delivered by a specific provider; or
- (b) The provider is unable to meet the needs of the beneficiary.

4205.12 A provider shall demonstrate the following before or at the time of a request to suspend, discharge, transfer or terminate a beneficiary:

- (a) Appropriate steps were taken to attempt remediation of the situation that gave rise to the conditions necessitating the action as set forth in Subsection 4205.11, including a meeting with the beneficiary to resolve conflicts and provider staff training to resolve any staff complaints; and

- (b) Compliance with provider requirements outlined in Subsection 4205.15 to ensure safe suspension, discharge, transfer or termination of services.
- 4205.13 DHCF, a case manager or provider may suspend the services of a beneficiary when:
- (a) The beneficiary's behavior poses a risk to the staff, and interventions have not successfully addressed the behavior; or
- (b) The beneficiary prohibits access to provider-related visits; or
- 4205.14 In order to ensure that the beneficiary's health is not threatened during a discharge, transfer, suspension, or termination of services, the provider shall:
- (a) Assess the beneficiary's condition to ensure that discharge, transfer, suspension or termination of services does not endanger the health and safety of the beneficiary;
- (b) Document assessment findings in the beneficiary's record;
- (c) Notify the physician;
- (d) Ensure that the beneficiary's Medicaid eligibility is current;
- (e) Refer the beneficiary to the Department of Behavioral Health or other agencies, as the case manager deems appropriate; and
- (f) Document the actions taken to ensure that the beneficiary's discharge, transfer, suspension, or service termination will have no adverse effect on the beneficiary.
- 4205.15 In addition to the requirements specified in Subsection 4205.16, the provider shall take the following administrative actions before effectuating a discharge, transfer, suspension, or service termination:
- (a) Issue written notice pursuant to Subsection 4202.2;
- (b) Arrange for alternative services prior to effectuating the discharge, transfer, suspensions or service termination;
- (c) Provide the beneficiary and DHCF (at DHCFLTCAProvider@dc.gov) with a copy of the plan identifying alternative services, identify the alternative services and include timelines describing when the alternative services will be put in place;

- (d) Notify DHCF, the Department of Health (DOH) Health Regulation and Licensing Administration, and Adult Protective Services if the provider believes that the beneficiary's health is at risk as a result of the discharge, transfer, suspension or service termination; and
- (e) In the case of transfers, including transfers to a new case management agency, ensure that an agreement between the transferring agency and receiving agency is executed before the transfer is executed.

4205.16 A case manager or case management agency shall notify DHCF or its designee of the need to send a written notice pursuant to the grounds of disenrollment from the EPD Waiver Program set forth in Subsections 4205.7(e) through (g) within five (5) business days of learning of the event in question.

4206 ASSURING CULTURAL COMPETENCY

4206.1 In accordance with Title VI of the Civil Rights Act of 1964 and its implementing regulations (42 U.S.C. §§ 2000d *et seq.*, 45 CFR part 80), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132), no individual shall, on the grounds of race, color, national origin, Limited English Proficiency (LEP), or disability, be excluded from participation, be denied the benefits of, or be otherwise subjected to discrimination under any EPD Waiver Services program.

4206.2 Each provider shall develop an effective plan on language assistance for beneficiaries who are LEP, and ensure access to translation services and free interpretation services in accordance with guidance from Department of Health and Human Services, Office of Civil Rights, available at: <http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/index.html>. The plan shall address the LEP needs of the population it serves and ensure compliance with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*).

4206.3 In accordance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and in order to prohibit discrimination on the basis of disability in programs that receive financial assistance from the federal government, each provider of EPD Waiver services shall ensure that all handicapped beneficiaries, shall have access to a provider's facilities or not be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under the Medicaid program (45 CFR § 84.21), and "shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons" (45 CFR § 84.22 (f)).

4207 RECORDS AND CONFIDENTIALITY OF INFORMATION: GENERAL

- 4207.1 Each provider of waiver services shall establish and implement a privacy plan to protect the privacy and confidentiality of a beneficiary's records.
- 4207.2 The disclosure of information by a provider of waiver services shall be subject to all provisions of applicable District and federal laws governing the privacy and security of health and personal information.
- 4207.3 Each provider of waiver services shall maintain comprehensive records of the waiver services provided to each beneficiary, and shall maintain each record for a period of no less than ten (10) years.
- 4207.4 Each beneficiary's electronic case management record shall include, but shall not be limited to, the following information:
- (a) General information including each beneficiary's name, Medicaid identification number, address, telephone number, age, sex, name and telephone number of emergency contact person, physician's name, address, and telephone number;
 - (b) A signed copy of the beneficiary's Bill of Rights and Responsibilities;
 - (c) A complete PCSP which includes all signatures as required in Section 4204 of this chapter;
 - (d) A copy of the initial and all subsequent level of care determinations, case manager attestation/evaluation forms, and the results of the comprehensive assessment tool;
 - (e) A record of the initial signed Waiver Beneficiary Freedom of Choice form;
 - (f) A record of all case management in-home site visits and telephone contacts;
 - (g) A record of all PERS plans of care, if PERS were approved under the PCSP;
 - (h) A record of the initial and annual Pre-Admission Screening and Resident Review (PASRR) for mental illness, cognitive deficiency, and intellectual/developmental disability and Psychiatric Evaluation, as necessary;
 - (i) A record of quarterly reviews and narrative notes;

- (j) A record of the beneficiary's initial and annual health history;
- (k) A record of all prior authorizations for services;
- (l) A record of all requests for program modification requests including initiations, changes, discharges, transfers, suspensions, and terminations;
- (m) A discharge summary, if applicable; and
- (n) Any other records necessary to demonstrate compliance with all regulations, requirements, guidelines, and standards for the implementation and administration of this waiver.

4207.5 Each direct-services provider of waiver services shall be responsible for maintaining records related to the provision of services delivered in accordance with the specific provider requirements set forth under this chapter.

4208 ACCESS TO RECORDS

4208.1 Each provider of waiver services shall allow appropriate DHCF personnel, representatives of the U.S. Department of Health and Human Services and other authorized designees or officials of the District of Columbia government and federal government full access to all records upon request and during announced or unannounced audits or reviews.

4209 REIMBURSEMENT: GENERAL

4209.1 DHCF shall not reimburse any provider of Waiver services who:

- (a) Fails to comply with any applicable regulation in this chapter;
- (b) Fails to comply with all applicable federal and District of Columbia laws, and regulations;
- (c) Fails to comply with all applicable transmittals, rules, manuals and other requirements for payment issued by DHCF;
- (d) Provides services in the absence of an approved prior authorization from DHCF or its designee for payment identifying the authorized service, number of hours or units authorized, duration, and scope of service; and
- (e) Fails to comply with the terms of the Medicaid Provider Agreement.

4209.2 Each provider of Waiver services shall agree to accept as payment in full the amount determined by DHCF as reimbursement for the authorized waiver services provided to beneficiaries.

- 4209.3 Each provider shall agree to bill any and all known third-party payers prior to billing Medicaid.
- 4209.4 For purposes of this chapter, the effective dates of EPD Waiver Year Five (5) are January 4, 2016 through April 3, 2017.
- 4209.5 For purposes of this chapter, the effective dates of EPD Waiver Year One (1) of the Renewal are April 4, 2017 through January 3, 2018.
- 4209.6 In accordance with CMS' cost neutrality requirements, DHCF may limit or deny Waiver services if the cost of the services in addition to other home care services, exceeds the estimated cost of institutional care.
- 4209.7 Subsequent changes to any of the reimbursement rate(s) published herein shall be posted on the Medicaid fee schedule at www.dc-medicaid.com. DHCF shall also publish a notice in the *D.C. Register* which reflects the change in the reimbursement rate(s) at least thirty (30) days before a change is made to the reimbursement rate.

4210 REIMBURSEMENT RATES: CASE MANAGEMENT SERVICES

- 4210.1 Case management services shall be reimbursable on a per member per month (PMPM) basis.
- 4210.2 The PMPM reimbursement rate during Waiver Year 5 and Waiver Year 1 of the Renewal shall be two hundred forty-five dollars and ninety-six cents (\$245.96), contingent on performance of the monthly and ongoing care coordination activities outlined in Section 4224.
- 4210.3 In order for a case management agency to receive reimbursement for case management services, each Case Manager must perform case management duties either on a full-time or on a part-time basis. At any point in time, no more than forty-five (45) beneficiaries shall be assigned to each Case Manager.
- 4210.4 The case management agency shall ensure case management services are available during regular business hours and shall be on call during weekends and evenings in case of emergency.
- 4210.5 Reimbursement for transitional case management services provided during a hospital or nursing facility (*i.e.*, institutional) stay shall not exceed one hundred twenty (120) days. Reimbursement shall be contingent on the Case Manager's performance of activities during the institutional stay that facilitate transition to the community, consistent with the reimbursement standards for transitional case management set forth in Subsection 4224.9.

- 4210.6 Reimbursement for transitional case management services shall be made only after the beneficiary returns to the home or community setting and not during the beneficiary's institutional stay.
- 4211 REIMBURSEMENT RATES: PERSONAL CARE AIDE (PCA) SERVICES**
- 4211.1 A home care agency seeking reimbursement for PCA services shall meet the conditions of participation for home health agencies set forth in 42 CFR part 484, and shall comply with the requirements set forth in 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 *et seq.*)
- 4211.2 For dates of services beginning November 3 through December 31, 2015, each Provider shall be reimbursed five dollars (\$5.00) per unit of service for allowable services in accordance with the Patient Protection and Affordable Care Act of 2010, approved March 23, 2010 (Pub. L. No. 111-148, 124 Stat. 119), as amended, and supplemented by the Health Care and Education Reconciliation Act of 2010, approved March 30, 2010 (Pub. L. No. 111-152, 124 Stat. 1029) and the District of Columbia Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code §§ 32-131.01 *et seq.*) The reimbursement rate includes administrative costs following the recent review of the FY 2013 Home Health Agencies cost reports, of which no less than three dollars and forty-five cents (\$3.45) shall be paid to the personal care aide to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).
- 4211.3 For dates of services beginning January 1, 2016, each provider shall be reimbursed five dollars and two cents (\$5.02) per unit of service for allowable services as authorized in the approved plan of care, of which no less than three dollars and forty-six cents (\$3.46) per fifteen (15) minutes for services rendered by a PCA, shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).
- 4211.4 For dates of services beginning January 1, 2017, each provider shall be reimbursed five dollars and five cents (\$5.05) per unit of service for allowable services as authorized in the approved plan of care, of which no less than three dollars and forty-nine cents (\$3.49) per fifteen (15) minutes for services rendered by a PCA, shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).
- 4211.5 A unit of service for PCA services shall be fifteen (15) minutes spent performing allowable tasks.

4211.6 Reimbursement for PCA services under the Waiver shall not exceed sixteen (16) hours of service per day per beneficiary.

4211.7 A provider of waiver services shall not bill the beneficiary or any member of the beneficiary's family for PCA services.

4211.8 DHCF shall not reimburse a provider of PCA services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian with the exception of parents of adult children.

4212 REIMBURSEMENT RATES: PERSONAL EMERGENCY RESPONSE SERVICES (PERS)

4212.1 The reimbursement rate during EPD Waiver Year 5 and EPD Waiver Year 1 of the Renewal for PERS shall be forty dollars (\$40.00) for one (1) installation and twenty-eight dollars and fifty cents (\$28.50) per month for the rental/maintenance fee consistent with the PERS program services set forth in Section 4229.

4213 REIMBURSEMENT RATES: RESPITE SERVICES

4213.1 For individuals needing one (1) to seventeen (17) hours per day, the reimbursement rate for respite services during Waiver Year 5 shall be twenty dollars and sixty cents (\$20.60) per hour. For individuals needing eighteen (18) to twenty-four (24) hours per day, the reimbursement rate during Waiver Years 4 and 5 shall be a flat rate of three hundred dollars (\$ 300.00) per day.

4213.2 For EPD Waiver Year 1 of the Renewal, the reimbursement rate for respite services for individuals needing one (1) to seventeen (17) hours per day shall be twenty dollars and twenty cents (\$20.20) per hour. For individuals needing eighteen (18) to twenty-four (24) hours per day, the reimbursement rate during Waiver Year 1 of the Renewal shall be a flat rate of three hundred eleven dollars and fifty cents (\$311.50) per day.

4213.3 Consistent with Section 4232, respite services shall be limited to a total of four hundred and eighty (480) hours per year per beneficiary unless the need for additional services is prior authorized by DHCF or its designee.

4213.4 DHCF shall not reimburse a provider of respite services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian with the exception of parents of adult children. Non-legally responsible relatives including parents of adult children may provide and be reimbursed for respite services provided they meet the requirements of Section 4231.

4213.5 DHCF shall not reimburse for the cost of room and board except when provided as part of respite care furnished in a facility approved by the District of Columbia that is not a private residence.

4213.6 When respite is provided in a facility, including an Assisted Living Facility, group home, or other Community Residential Facility, the facility must meet all HCBS setting requirements consistent with Section 4200.

4214 REIMBURSEMENT RATES: HOMEMAKER SERVICES

4214.1 The reimbursement rate for homemaker services during Waiver Year 5 shall be eighteen dollars and seventy five cents (\$18.75) per hour with an annual cap of two hundred eight (208) hours per beneficiary per year.

4214.2 The reimbursement rate for homemaker services during Waiver Year 1 of the Renewal shall be eighteen dollars and eighty cents (\$18.80) per hour with an annual cap of two hundred eight (208) hours per beneficiary per year.

4214.3 DHCF shall not reimburse a provider of homemaker services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian with the exception of parents of adult children. Non-legally responsible relatives including parents of adult children may provide homemaker services provided they meet the requirements of Section 4233.

4215 REIMBURSEMENT RATES: CHORE AIDE SERVICES

4215.1 The reimbursement rate for chore aide services for Waiver Year 5 shall be eighteen dollars and seventy five cents (\$18.75) per hour with a cap of thirty two (32) units per beneficiary throughout the Waiver period, with a unit being one (1) hour of service.

4215.2 The reimbursement rate for chore aide services for Waiver Year 1 of the Renewal shall be eighteen dollars and eighty cents (\$18.80) per hour with a cap of thirty two (32) units per beneficiary throughout the Waiver Renewal period, with a unit being one (1) hour of service.

4215.3 DHCF shall not reimburse any home care agency, or licensed provider of housekeeping services that provide chore aide services in residences where another party is otherwise responsible for the provision of the services, such as group home providers.

4215.4 DHCF shall not reimburse a provider of chore aide services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian with the exception of parents of adult children. Non-legally responsible relatives including parents of adult children may provide chore aide services provided they meet the requirements of Section 4235.

4215.5 Chore aide services shall not be reimbursed by the DHCF unless the agency or business provides documentation of pre- and post-cleaning activities as referenced in Subsection 4235.10.

4216 REIMBURSEMENT RATES: ASSISTED LIVING SERVICES

4216.1 The reimbursement rate for assisted living services during Waiver Year 5 shall be sixty dollars (\$60.00) per day.

4216.2 The reimbursement rate for assisted living services during Waiver Year 1 of the Renewal shall be one hundred fifty five (\$155) dollars per day.

4216.3 The rate shall be an all-inclusive rate for all services provided as set forth in Section 4238.

4216.4 Medicaid reimbursement will not be made for twenty-four (24) hour skilled care, costs of facility maintenance, upkeep and improvement, and room and board. Covered services shall be in accordance with Section 4238.

4216.5 Beneficiaries may seek subsidies outside of the Home and Community Based Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver) to pay for room and board through the Optional State Supplemental Payment Program.

4216.6 DHCF shall not reimburse for assisted living services provided concurrently with the following EPD Waiver services:

- (a) Homemaker services;
- (b) Chore Aide services;
- (c) PERS;
- (d) Respite services; or
- (e) Environmental accessibility adaptations services.

4216.7 PCA services are included for beneficiaries residing in assisted living as part of the all-inclusive rate. Therefore, a Home Care Agency cannot bill for Personal Care Aide Services for a beneficiary who is concurrently receiving assisted living services.

4217 REIMBURSEMENT RATES: ENVIRONMENTAL ACCESSIBILITY ADAPTATION

4217.1 Environmental accessibility adaptations services shall be reimbursed in accordance with the applicable requirements set forth in Sections 4239 through 4240 of this chapter.

4217.2 The maximum reimbursable cost per beneficiary over the duration of each waiver period is ten thousand dollars (\$10,000.00) for EAA services. The ten thousand dollar (\$10,000) rate shall include a five hundred dollar (\$500) reimbursement rate per inspection for the costs associated with the home inspection or evaluation.

4218 REIMBURSEMENT RATES: ADULT DAY HEALTH

4218.1 The reimbursement rate for adult day health services during Waiver Year 5 and Waiver Year 1 of the Renewal shall be a per-diem rate of one hundred and twenty five dollars and seventy eight cents (\$125.78).

4218.2 A provider shall not be reimbursed for adult day health services if the beneficiary enrolled in the waiver is concurrently receiving the following services:

- (a) Intensive day treatment or day treatment mental health rehabilitative services (MHRS) under the District of Columbia State Plan for Medical Assistance (State Plan);
- (b) Personal Care Aide services; (State Plan or Waiver);
- (c) Services funded by the Older Americans Act of 1965, approved July 14, 1965 (Pub. L. No. 89-73, 79 Stat. 218); or
- (d) 1915(i) State Plan Option services under the State Plan.

4218.3 If a beneficiary is eligible for adult day health services under the Waiver and intensive day treatment MHRS, a provider shall not be reimbursed for adult day health services if the beneficiary is receiving intensive day treatment mental health rehabilitation services on the same day, or during a twenty-four (24) period that immediately precedes or follows the receipt of adult day health services.

4218.4 Adult day health services shall not be provided for more than five (5) days per week and for more than eight (8) hours per day.

4218.5 Adult day health services may be used in combination or on the same day as PCA services, as long as these services are not billed “concurrently” or during the same time.

4218.6 When a beneficiary enrolled in the EPD Waiver is receiving PCA and adult day services on the same day, the combination of both PCA and adult day services shall not exceed a total of sixteen (16) hours per day.

4219 REIMBURSEMENT RATES: PHYSICAL THERAPY

4219.1 The reimbursement rate for physical therapy for Waiver Year 5 and Waiver Year 1 of the Renewal shall be sixteen dollars and twenty five cents (\$16.25) per unit, where one unit of service is equivalent to fifteen (15) minutes of service delivery.

4219.2 Reimbursement of physical therapy services shall be limited to four (4) hours per day and one hundred (100) hours per calendar year. Requests for additional hours may be submitted to DHCF or its agent and approved when accompanied by a physician's order or when the request has passes a clinical review by staff designated by the State Medicaid Director to provide oversight on the utilization of additional services.

4220 REIMBURSEMENT RATES: OCCUPATIONAL THERAPY

4220.1 The reimbursement rate for occupational therapy during Waiver Year 5 and Waiver Year 1 of the Renewal shall be sixteen dollars and twenty five cents (\$16.25) per unit, where one unit of service is equivalent to fifteen (15) minutes of service delivery.

4220.2 Reimbursement of occupational therapy services shall be limited to four (4) hours per day and one hundred (100) hours per calendar year. Requests for additional hours may be submitted to DHCF or its agent and approved when accompanied by a physician's order or when the request passes a clinical review by staff designated by the State Medicaid Director to provide oversight on the utilization of additional services.

4221 REIMBURSEMENT RATES: COMMUNITY TRANSITION SERVICES

4221. 1 In accordance with Section 4252, reimbursement for the household set up items specified under § 4252.2 shall not exceed five thousand dollars (\$5,000) per Waiver period and shall only be reimbursed beginning one hundred twenty (120) days before a beneficiary's discharge and up to six (6) months after discharge from an institution or long term care facility.

4222 PROVIDER REQUIREMENTS: GENERAL

4222.1 Each provider approved to provide one or more Waiver services shall meet the following minimum requirements:

- (a) Demonstrate compliance with all applicable provisions of Chapter 94 (Medicaid Provider and Supplier Screening, Enrollment, and Termination) of Title 29 DCMR;
- (b) Have a completed, approved, and current Medicaid Provider Agreement with DHCF before providing any waiver services; and

- (c) Be licensed to do business in the District of Columbia, if required by this chapter.
- 4222.2 Each provider of waiver services shall demonstrate a comprehensive knowledge and understanding of the EPD Waiver program including:
- (a) Knowledge of Medicaid State Plan services and limitations;
- (b) Knowledge of community resources (legal, housing, energy, food, transportation, and other medical and social assistance) and the methods of accessing these resources; and
- (c) An understanding of the relationship between Medicaid State Plan and waiver services.
- 4222.3 Each provider of waiver services shall immediately notify DHCF's Long Term Care Administration when a beneficiary is institutionalized, hospitalized or has his or her waiver services suspended for a reason other than those which do not result in an official notice of suspension as set forth in Section 4205.
- 4222.4 Each provider of waiver services shall demonstrate a service history and current capacity to assist beneficiaries in accessing services provided through the District of Columbia Office on Aging or other agencies serving the elderly and individuals with physical disabilities.
- 4222.5 Each provider of waiver services shall require and thoroughly check at least two (2) professional references on all staff entering the home of a waiver beneficiary.
- 4222.6 Each waiver service provider with employees providing direct care in a beneficiary's home or permanent place of residence shall have a proof of compliance with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999, as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code §§ 44-551 *et seq.*).
- 4222.7 No employee of a waiver services provider who has been convicted of a felony, a crime involving abuse, neglect, or violence against the person of another, or crime involving theft or larceny under federal or District law shall provide services to a beneficiary.
- 4222.8 Each provider of waiver services shall conduct a performance evaluation of all staff after the first three (3) months of employment and annually thereafter, maintain all performance evaluation files for a period of no less than ten (10) years, and make such files available for review by appropriate DHCF personnel,

representatives of the U.S. Department of Health and Human Services and other authorized designees or officials of the District of Columbia government and federal government.

- 4222.9 Each provider of direct care services shall ensure that all staff providing direct care services is trained in universal precautions prior to the provision of any service.
- 4222.10 Universal precautions training shall be included as a component of annual continuing education classes for all staff, including homemakers, who may encounter blood or bodily fluids while providing direct care services. <https://www.osha.gov/SLTC/etools/hospital/hazards/univprec/univ.html>. Documentation of universal precautions training shall be maintained in an employee's file for a period of no less than ten (10) years.
- 4222.11 Each provider of waiver services shall establish and implement a process to ensure that each beneficiary has:
- (a) Been informed of and given his or her freedom of choice in the selection of all qualified service providers; and
 - (b) Been informed of his or her rights and responsibilities under the waiver program.
- 4222.12 When a waiver beneficiary chooses an individual, or family member other than a primary caregiver, the beneficiary's spouse, or other legally responsible relative, or court-appointed guardian to provide direct care services, these individuals shall be subject to the same certification requirements as other service providers described within this chapter.
- 4222.13 Each provider of waiver services shall attend all mandatory provider meetings and trainings hosted by DHCF when scheduled.
- 4222.14 All Case Managers, Adult Day Health, Assisted Living providers, Community Residence Facility providers and Home Care Agencies providing EPD Waiver services shall complete mandatory training in Person-Centered Thinking, Supported Decision-Making, and Supported Community Integration.
- 4222.15 Each provider of waiver services shall immediately report all instances of suspected fraud, theft, or abuse committed by an employee or agent of the provider, or by a beneficiary to whom the provider is rendering waiver services, to the DHCF Division of Program Integrity.
- 4223 SPECIFIC PROVIDER REQUIREMENTS: CASE MANAGEMENT SERVICES**

- 4223.1 Each individual providing case management services shall meet the following requirements:
- (a) Be at least eighteen (18) years of age;
 - (b) Be a United States citizen or alien who is lawfully authorized to work in the United States;
 - (c) Provide proof by submitting photocopies of the supporting documents for the Immigration and Naturalization Service's Form I-9 requirements;
 - (d) Be able to read and write English;
 - (e) Be acceptable to the beneficiary using the Waiver service;
 - (f) Confirm, on an annual basis, that he or she is free of active tuberculosis by undergoing an annual purified protein derivative (PPD) skin test;
 - (g) Confirm, on an annual basis, that he or she is free of communicable diseases by undergoing an annual physical examination by a physician, and obtaining written and signed documentation from the examining physician that confirms he or she is free of communicable diseases; and
 - (h) Provide to each case management service provider for whom he or she works:
 - (1) Evidence of acceptance or declination of the Hepatitis vaccine; and
 - (2) A completed DHCF Conflict-Free Case Management Self-Attestation Form described in Subsection 4223.2.
- 4223.2 Effective March 25, 2016, except as provided in Subsection 4223.3, an individual providing case management services, who is employed or under contract to a Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver) case management service provider shall self-attest to meeting the CMS conflict-free standards in accordance with 42 CFR § 441.301(c)(1)(vi) using the DHCF Conflict-Free Case Management Self-Attestation Form. Under these standards, individual case managers shall not:
- (a) Be related by blood or marriage to the person receiving services, or to any paid caregiver of the person;
 - (b) Be financially responsible for the person, or be empowered to make financial or health decisions on the person's behalf;

- (c) Have a financial relationship, defined in 42 CFR § 411.354, with any entity that is paid to provide care for the person; and
- (d) Be employed by any entity that is a provider of a person's PCA services or any other direct services under the EPD Waiver.

4223.3 An individual providing EPD Waiver case management services shall meet the requirements of Subparagraph 4223.1(h)(2) no later than July 1, 2016.

4223.4 EPD Waiver case management service providers shall ensure they have a copy of the DHCF Conflict-Free Case Management Self-Attestation Form on file for each case manager prior to submission of any claims for case management services provided by that case manager on or before July 1, 2016. DHCF Conflict-Free Case Management Self-Attestation Forms are subject to inspection and audit and must be produced upon request.

4223.5 Individuals conducting case management services shall meet one of the following educational requirements:

- (a) Have a current license in nursing, social work, psychology, counseling, occupational, physical, or speech therapy with a Master's degree in social work, psychology, counseling, rehabilitation, nursing, gerontology, or sociology, and have at least one (1) year of experience working with the elderly or individuals with physical disabilities;
- (b) Have a current license in nursing, social work, psychology, counseling, occupational, physical, or speech therapy with a Bachelor's degree in social work, psychology, counseling, rehabilitation, nursing, gerontology, or sociology, and have two (2) years of experience working with the elderly or individuals with physical disabilities; or
- (c) Have a current license as a Registered Nurse (RN), have an Associate degree in nursing, and have at least three (3) years of experience working with the elderly and individuals with physical disabilities.

4223.6 Case management service providers shall not provide medical, financial, legal, or other services or advice for which they are not qualified or licensed to provide (except for providing referrals to qualified individuals, agencies, or programs).

4223.7 Effective March 25, 2016, except as provided in Subsection 4223.8, in accordance with 42 CFR § 441.301(c)(1)(vi), the following providers shall not be eligible to provide case management services:

- (a) An entity that is a Medicaid provider of PCA services or any other direct services under the EPD Waiver; or

- (b) An entity that has a financial relationship, as defined in 42 CFR § 411.354, with a Medicaid provider of PCA services or any other direct services under the EPD Waiver.
- 4223.8 Effective March 25, 2016, an entity that is enrolled to provide case management services that is also a Medicaid provider of PCA services or any other direct services under the EPD Waiver; or has a financial relationship, as defined in 42 CFR § 411.354, with a Medicaid provider of PCA services or any other direct services under the EPD Waiver, shall have until July 1, 2016, to come into compliance with Subsection 4223.7.
- 4223.9 An entity described in Subsection 4223.8 shall notify DHCF of its election to continue or discontinue providing case management services no later than September 1, 2015. An entity that chooses to discontinue case management services shall submit a transition plan to DHCF no later than October 1 2015, and shall cooperate with DHCF to effectuate the orderly and timely transition of its enrollees to other case management providers that meet the conflict-free case management standards. These transition plans shall include sufficient safeguards to protect individuals who may experience gaps in services during transitions, including demonstrating efforts to ensure compliance with any notice or due process rights governed under local and federal law in case of service suspensions, or terminations.
- 4223.10 Each case management service provider shall conduct an initial evaluation within forty-eight (48) business hours of receiving the waiver referral and prior to the development of the PCSP. All initial PCSPs and all renewal PCSPs shall conform to the person-centered planning requirements in 42 CFR §§ 441.301(c)(1) – (3) by November 1, 2016, and case managers shall use DHCF’s person-centered-planning template, available at <http://dhcf.dc.gov/release/person-centered-planning>, to develop each beneficiary’s PCSP.
- 4223.11 Each case management service provider shall complete and submit the PCSP to DHCF or its designee for review and approval within ten (10) business days of conducting the initial evaluation.
- 4223.12 Each case management service provider shall include the person whose plan is being developed, other contributors chosen and invited by the person, and representatives of the person’s interdisciplinary team, if possible, in the initial evaluation referenced in Subsection 4223.10 and in the development and implementation of the PCSP. The person or authorized representative shall have access to the PCSP and shall be involved in the periodic review of the PCSP.
- 4223.13 It is the responsibility of the case management service provider to ensure that all other professional disciplines, as identified for resolution of identified needs, are

incorporated into the PCSP. Specifically, each case management service provider shall coordinate a beneficiary's care by sharing information with all other health care and service providers identified in the PCSP, as applicable, to ensure that the beneficiary's care is organized and to achieve safer and more effective health outcomes.

4223.14 Each case management service provider shall maintain, follow, and continually update a training and supervision program to ensure the individual delivering case management services is fully trained and familiar with the waiver policies and procedures, including CMS's conflict-free case management standards as set forth in this section.

4223.15 Each provider of case management services shall ensure that individuals providing case management services are appropriately supervised and that the case management service provided is consistent with the person's PCSP.

4224 PROGRAM SERVICES: CASE MANAGEMENT SERVICES

4224.1 The goal of case management services shall be to ensure EPD Waiver beneficiaries have access to the services and supports needed to live in the most integrated setting including:

- (a) EPD Waiver Services;
- (b) Non-waiver Medicaid funded services under the Medicaid State Plan; and
- (c) Other public and private services including medical, social, and educational services and supports.

4224.2 Case management shall consist of the following:

- (a) Initial evaluation of the beneficiary's current and historical medical, social, and functional status to determine levels of service needs;
- (b) Person-centered process for service planning ("person-centered planning"), including development and maintenance of the Person-Centered Service Plan (PCSP) in accordance with Section 4204;
- (c) Monthly or ongoing care coordination activities, in accordance with Subsection 4224.8 and transitional case management services set forth in Subsection 4224.9; and
- (d) Annual reassessment activities, in accordance with Subsection 4224.14.

- 4224.3 Consistent with Subsection 4224.2, each Case Manager shall conduct an in-person initial evaluation of the beneficiary within forty-eight (48) hours of receiving notice of his or her enrollment in the EPD Waiver.
- 4224.4 The Case Manager shall develop, complete, and submit the PCSP to DHCF, or its designee, within ten (10) business days of initiating the initial evaluation.
- 4224.5 The Case Manager shall use a person-centered planning process to develop the PCSP, described in Section 4204, with consideration of the following:
- (a) The beneficiary's personal preferences in developing goals to meet the beneficiary's needs;
 - (b) Convenience of the time and location for the beneficiary and any other individuals included in the planning and potential in-person discussions with all parties and representatives of the beneficiary's interdisciplinary team;
 - (c) Incorporating feedback from the beneficiary's interdisciplinary team and other key individuals who cannot attend in-person discussions where the beneficiary is present;
 - (d) Ensuring information aligns with the beneficiary's acknowledged cultural preferences and communicated in a manner that ensures the beneficiary and any representative(s) understand the information;
 - (e) Ensuring access to effective, understandable, and respectful services in accordance with the U.S. Department of Health and Human Services' National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care, <http://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>, and providing auxiliary aids and services, if necessary;
 - (f) Providing interpreters and translated written documents for those with low literacy or Limited English Proficiency (LEP) to ensure meaningful access for beneficiaries and/or their representatives;
 - (g) Incorporating a strengths-based approach which identifies the beneficiary's positive attributes, and assesses strengths, preferences, and needs;
 - (h) Exploration of housing and employment in integrated settings, where planning is consistent with the goals and preferences of the beneficiary; and
 - (i) Ensuring that a beneficiary under guardianship, other legal assignment, or

who is being considered as a candidate for such an arrangement, has the opportunity to address concerns related to the PCSP development process.

- 4224.6 Except for services approved to be delivered sooner, DHCF, or its designee, shall prior authorize the services recommended in the PCSP within seven (7) business days of its receipt of the request.
- 4224.7 Following approval of services by DHCF, or its designee, the Case Manager shall follow-up with the selected service providers within five (5) business days to ensure services are in place at the quantity and quality that is sufficient to meet the beneficiary's needs, unless services are needed earlier and not receiving them would place the beneficiary's health in jeopardy.
- 4224.8 In order for case management services to be reimbursable, a Case Manager shall perform the following ongoing or monthly care coordination activities:
- (a) Direct observation of the beneficiary, including the evaluation described in Subsection 4224.3;
 - (b) Follow-up to ensure DHCF, or its designee, timely uploads the beneficiary's level of care determinations into DHCF's electronic management system;
 - (c) Develop and monitor the PCSP in accordance with Section 4204 and Subsection 4224.5;
 - (d) Assist the beneficiary with the selection of eligible EPD Waiver providers;
 - (e) Coordinate the beneficiary's waiver services to ensure safe, timely, and cost effective delivery;
 - (f) Provide information, assistance, and referrals to the beneficiary, where appropriate, related to public benefits and community resources, including other Medicaid services, Medicare, Supplemental Security Income (SSI), transit, housing, legal assistance, and energy assistance;
 - (g) Provide support for the beneficiary and family as needed through additional visits, telephone calls;
 - (h) Monitor the performance of medical equipment and refer malfunction(s) to appropriate providers;
 - (i) Maintain records related to EPD Waiver services that a beneficiary receives and upload all information into DHCF's electronic case management system;

- (j) Ensure all information uploaded into DHCF's electronic management system is legible, including monthly assessment and status updates and telephone contacts;
- (k) Assess appropriateness of beneficiary's continued participation in the waiver;
- (l) Provide information to the beneficiary, authorized representative(s), family members, or legal guardian(s) about the beneficiary's rights, Waiver provider agency procedures for protecting confidentiality, and other matters relevant to the beneficiary's decision to accept services;
- (m) Identify and resolve problems as they occur;
- (n) Acknowledge and respond to beneficiary inquiries within twenty-four (24) hours of receipt, unless a quicker response is needed to address emergencies;
- (o) Develop and implement a utilization review plan to achieve appropriate service delivery, ensure non-duplication of services, and evaluate the appropriateness, efficiency, adequacy, scope, and coordination of services;
- (p) Conduct at least monthly, or more frequently as needed, in-person monitoring visits in the beneficiary's home;
- (q) Supplement in-person monitoring visits described in Paragraph 4224.8(p) with ongoing telephone contact, as required by the individual needs of the beneficiary;
- (r) Respond to requests received during monitoring activity within forty-eight (48) hours, making necessary updates to the PCSP within seven (7) days of monitoring activity or the beneficiary or representative's request to update the PCSP, and ensure the process and all updates comport with Section 4204 including in-person requirements;
- (s) Ensure that the updated PCSP is conducted in-person with the beneficiary, the interdisciplinary team, and others chosen by the person and other requirements of the PCSP planning and development process described in this Section;
- (t) Review the implementation of the PCSP at least quarterly, and as needed, in accordance with Subsection 4224.13;
- (u) Promptly communicate any major updates, issues, or problems to DHCF, or its designee;

- (v) Conduct all other activities related to the coordination of EPD Waiver services, including ensuring that services are utilized and are maintaining the beneficiary in the community;
- (w) Provide transitional case management services for a period not to exceed one hundred twenty (120) days during an institutional stay in order to facilitate the beneficiary's transition back to the community, in accordance Subsection 4224.9; and
- (x) Perform other service-specific responsibilities and annual reassessment activities described in Subsections 4224.10 and 4224.14.

4224.9 In order for transitional case management services to be reimbursable by Medicaid, a Case Manager shall document and perform the following activities:

- (a) Maintain contact with the beneficiary or representative during the institutional stay;
- (b) Ensure the beneficiary stays connected to community resources (e.g., housing) during the institutional stay and provide assistance to connect to new or reconnect to existing community resources upon discharge;
- (c) Participate in-person in the discharge planning meetings at the institutional care provider's site; and
- (d) Secure prior authorization(s) for service(s) to ensure they are in place on the first day of the beneficiary's discharge.

4224.10 In addition to the duties described in Subsections 4224.8 and 4224.9, a Case Manager shall perform the following service-specific care coordination responsibilities, if applicable:

- (a) Ensure occupational or physical therapy services provided under Early and Periodic Screening, Diagnostic and Treatment (EPSDT) are fully utilized and waiver services neither replace nor duplicate EPSDT services for a beneficiary ages eighteen (18) through twenty-one (21);
- (b) Examine existing responsibilities of the landlord or homeowner pursuant to the lease agreement (or other applicable residential contracts, laws, and regulations) prior to ordering chore aide services through the PCSP if the beneficiary needs chore aide services and resides in a rental property or a residential facility (e.g., assisted living); and
- (c) Assist the beneficiary with home adaptation assessments, evaluations, or bids in accordance with this chapter if the beneficiary requires EAA services.

- 4224.11 In accordance with Chapter 101 of Title 29 DCMR, for the participant-directed services program, *Services My Way*, Case Managers shall complete a standard training course on that program conducted by DHCF and participate in all required, ongoing training. Case Managers shall also perform activities related to *Services My Way* as follows:
- (a) Provide waiver applicants/beneficiaries with information about *Services My Way* as follows: at the time an EPD Waiver beneficiary is initially evaluated; when a beneficiary is reassessed for continued EPD Waiver eligibility; when the PCSP is updated; and at any other time upon request of the beneficiary or authorized representative;
 - (b) Assist applicants/beneficiaries who want to enroll in *Services My Way* by overseeing the beneficiary's completion of enrollment forms and incorporating program goals into the initial PCSP or a revision of an existing PCSP;
 - (c) Submit all *Services My Way* forms to the designated DHCF program coordinator;
 - (d) Communicate with support brokers to address health and safety concerns identified for *Services My Way* participants; and
 - (e) Facilitate transition from *Services My Way* to agency-based personal care aide services when a beneficiary is voluntarily or involuntarily terminated from the program.
- 4224.12 Case Managers shall also perform any other duties specified under the individual program services sections of this chapter.
- 4224.13 When conducting PCSP quarterly reviews, the Case Manager shall perform the following activities:
- (a) Review and update risk factors;
 - (b) Review stated goals, identified outcomes, services, and supports to ensure the beneficiary is receiving appropriate services for his or her needs;
 - (c) Review service utilization;
 - (d) Communicate with other providers regarding the beneficiary's goals and progress;
 - (e) Identify and resolve problems;

- (f) Provide referrals or linkages to community resources;
- (g) Revise the PCSP, if needed, to reflect changes in needs, goals, and services; and
- (h) Document results of PCSP quarterly reviews in DHCF's electronic case management system, including a summary of the status of the beneficiary's receipt of services and supports.

4224.14 The Case Manager shall ensure a beneficiary timely completes Medicaid reassessment(s) as part of the annual recertification requirements. This includes, but is not limited to, the following activities:

- (a) Collecting and submitting documentation to DHCF, or its designee, such as medical assessments, /clinician authorization forms, and case manager attestation/evaluation forms;
- (b) Effective April 1, 2018, conducting an evaluation of each beneficiary's health status at least once every twelve (12) months or upon a significant change in the beneficiary's health status and completing the case manager attestation/evaluation form following each evaluation;
- (c) Assisting the beneficiary to receive a level of care assessment from DHCF, or its designee when there is a change in health status, as determined by the evaluation described in (b);
- (d) Ensuring information is uploaded to DHCF's electronic case management system at least sixty (60) days prior to the expiration of the beneficiary's current certification period;
- (e) Collecting financial eligibility (*i.e.*, income) information from the beneficiary and/or the authorized representative and transmitting to DHCF, or its designee;
- (f) Reevaluating the beneficiary's goals, level of service and support needs, and updating and/or revising the PCSP to reflect any updates;
- (g) Assessing progress in meeting established goals, as documented in the PCSP and ensuring that the information is forwarded to DHCF;
- (h) Coordinating any change requests, including adding new services; and
- (i) After the approval of services by DHCF, or its designee, following-up with selected service providers within five (5) business days of the approval to ensure services are in place.

4225 CASE MANAGEMENT AGENCY AND CASE MANAGER RESPONSIBILITIES

- 4225.1 Case management agencies shall ensure that case managers shall not have a client caseload exceeding forty (45) persons (inclusive of Medicaid and non-Medicaid beneficiaries).
- 4225.2 In accordance with Section 4210, the case management agency shall be responsible for ensuring that case managers are available during regular business hours Monday through Friday, and on call during weekends and evenings in cases of emergency.
- 4225.3 Each case manager shall take all required trainings offered by DHCF and complete mandatory training in Person-Centered Thinking, Supported Decision-Making, and Supported Community Integration, in order to promote the efficient and effective delivery of Medicaid-financed services.
- 4225.4 Each case management agency shall develop an emergency response policy or plan to convey expectations of case managers whereby the case manager coordinates and implements services and ensures the beneficiary's safety, and wellness upon the beneficiary's notification to the case manager about the need for emergency care. This shall also include how the case managers are expected to be available and on call during weekends and evenings in cases of emergency as referenced in Subsection 4225.2.
- 4225.5 Each case management agency shall develop an incident management reporting policy to report, investigate, and follow-up the results of the investigation conducted pursuant to DHCF's Long Term Care Administration's incident management policy, as set forth in Section 4254 (Incidents and Complaints).
- 4225.6 In accordance with Section 4205, a case manager may coordinate the approval by DHCF or its designee for all program modification requests. These include requests to initiate, change, transfer, terminate, discharge, or suspend services.
- 4225.7 When coordinating program modification requests, the case manager shall ensure that provider requirements including notices and steps to ensure safe discharge, suspensions, transfers or service terminations were met.
- 4225.8 In the event that a change in service is requested, the beneficiary's case manager shall ensure that the PCSP is updated to reflect the change. Changes in service shall not be implemented until the PCSP is updated, approved by DHCF or its designee, and shared with the beneficiary and/or the authorized representative, unless a delay in the receipt of services would put the beneficiary's health and safety at risk, or if services are needed to effectuate a timely discharge from an institution.

4225.9 If EPD Waiver services are needed to effectuate a timely discharge from an institution during transitional case management, the case manager shall coordinate the modifications to change and/or initiate services by DHCF or its designee by submitting a new beneficiary freedom of choice form whereby the beneficiary elects to receive HCBS services and the case manager must amend the PCSP to reflect the services within ten (10) business days of the submission of the request to DHCF or its designee to authorize services.

4225.10 The case manager or case management agency shall coordinate dis-enrollments from the EPD Waiver program in accordance with the criteria set forth in Section 4205.

4226 SPECIFIC PROVIDER REQUIREMENTS: PERSONAL CARE AIDE SERVICES

4226.1 A personal care aide services provider shall meet the provider requirements as set forth in Chapter 50 (Medicaid Reimbursements for Personal Care Aide Services) of Title 29 DCMR. These shall include, but shall not be limited to:

- (a) Provider and Personal Care Aide (PCA) qualifications;
- (b) Staffing and administration requirements; and
- (c) Notice requirements.

4227 SPECIFIC ELIGIBILITY REQUIREMENTS: PERSONAL CARE AIDE SERVICES

4227.1 To receive Medicaid reimbursement for personal care aide (PCA) services, the beneficiary shall first exhaust all available PCA hours provided under the State Plan for Medical Assistance (Medicaid State Plan).

4227.2 To be eligible for Medicaid reimbursement of PCA services under the EPD Waiver program, each beneficiary shall have an assessed need for PCA services as established by the conflict-free assessment that cannot be met by State Plan PCA services alone.

4228 PROGRAM SERVICES: PERSONAL CARE AIDE SERVICES

4228.1 A provider shall deliver PCA services consistent with the program service requirements set forth in Chapter 50 of Title 29 DCMR. These include:

- (a) Plan of Care requirements;
- (b) Scope of Services; and

(c) Non-reimbursable tasks or services.

4228.2 A PCA provider shall employ an R.N. to develop a plan of care for delivering PCA services that is consistent with the goals of the PCSP.

4228.3 The plan of care shall be developed and reviewed in accordance with all of the requirements set forth in Chapter 50 of Title 29 DCMR, and be consistent with the goals of the PCSP.

4228.4 In accordance with Chapter 50 of Title 29 DCMR, PCA services under the State Plan benefit shall not be provided in a hospital, nursing facility, intermediate care facility or any other living arrangement which includes PCA services as a part of its reimbursement rate.

4228.5 A beneficiary receiving adult day health services and PCA services on the same day shall be limited to a maximum of a total of sixteen (16) hours of combined services a day.

4229 SPECIFIC PROVIDER REQUIREMENTS: PERSONAL EMERGENCY RESPONSE SERVICES (PERS)

4229.1 Each Personal Emergency Response Services (PERS) provider shall:

- (a) Provide in-home installation of all equipment necessary to make the service fully operational (including batteries);
- (b) Provide beneficiary and representative instruction on usage, maintenance, and emergency protocol of the PERS;
- (c) Provide equipment maintenance (both in-home and response center);
- (d) Provide twenty-four (24) hours per day, seven (7) days per week response center monitoring and support;
- (e) Conduct equipment testing, monitoring, and maintenance (both in-home and response center equipment);
- (f) Conduct monthly service checks;
- (g) Provide documentation of all services provided, beneficiary contacts, equipment and system checks, and equipment servicing;
- (h) Make available emergency equipment repairs to the beneficiary on a twenty-four (24) hours per day, seven (7) days per week basis; and

- (i) Allow the beneficiary to designate responder(s) who will respond to emergency calls. Responders may be relatives, friends, neighbors, or medical personnel.

4229.2 PERS shall not be provided to waiver beneficiaries who:

- (a) Are unable to understand and demonstrate proper use of the system; or
- (b) Live with a person who assumes responsibility for providing care (to the beneficiary) and the waiver beneficiary is subsequently not left alone for significant periods of time.

4229.3 Each PERS provider shall ensure that contractors are properly supervised and that the service provided is consistent with the beneficiary's PCSP.

4229.4 A PERS provider shall be exempt from the requirement to comply with an annual tuberculosis (TB) test; and

4229.5 A PERS provider shall be licensed to do business in the state in which it is incorporated.

4230 PROGRAM SERVICES: PERS

4230.1 PERS is an electronic system located in a beneficiary's home that summons assistance from a friend, relative, or an emergency services provider (police, fire department, or ambulance) and shall be available twenty-four (24) hours a day, seven (7) days a week.

4230.2 Each PERS system shall be comprised of three (3) basic elements:

- (a) A small radio transmitter (portable help button) carried by the user;
- (b) A console or receiving base connected to a user's telephone; and
- (c) A response center or responder to monitor the calls.

4230.3 The PERS shall be comprised of two (2) processes:

- (a) Installation of the service unit; and
- (b) On-going monitoring of the system.

4230.4 The unit of service shall be as follows:

- (a) One (1) unit per year for installation and testing of the PERS system; and

(b) Twelve (12) units per year for monthly rental, maintenance and service fee.

4230.5 The PERS shall be:

(a) Approved by the Case Manager as part of the beneficiary's PCSP; and

(b) Completed by personnel who are employed by the PERS provider. A copy of the approved PCSP shall be incorporated into the beneficiary's service record. The record shall be maintained for a period of no less than ten (10) years.

4231 SPECIFIC PROVIDER REQUIREMENTS: RESPITE SERVICES

4231.1 In order to receive Medicaid reimbursement, a respite service provider shall be a Medicaid enrolled home care agency approved by DHCF to deliver respite services in the District of Columbia.

4231.2 In order to receive Medicaid reimbursement for respite services, a home care agency providing respite services shall require that respite staff be certified as a Home Health Aide in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 93 (Home Health Aides) of Title 17 DCMR.

4231.3 DHCF requires respite staff to undergo any training as required pursuant to their DOH certification. Additionally, a respite service provider shall ensure that staff will receive individualized-in-service training about the beneficiary's needs from the supervisory nurse. The continuing education or individualized in-service training for respite services shall be specifically designed to increase the staff's knowledge and understanding of the beneficiary's unique needs.

4231.4 Comprehensive records identifying dates of any training including the individualized in-service training and topics covered shall be maintained in each employee's personnel file.

4231.5 The respite service provider shall develop and implement an initial intake assessment that:

(a) Assesses the beneficiary's respite needs; and

(b) Identifies the appropriate qualifications of the respite staff required to meet the identified needs.

4231.6 A Registered Nurse (R.N.) who possesses the following qualifications shall conduct the initial intake assessment:

- (a) Be licensed to practice registered nursing in the District of Columbia in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 54 (Registered Nursing) of Title 17 DCMR;
- (b) Be employed or contracted by the approved home care agency; and
- (c) Have at least one (1) year of experience working with the elderly and individuals with physical disabilities.

4231.7 After conducting the initial intake assessment, the R.N. shall:

- (a) Establish a written emergency notification plan for each beneficiary receiving respite services;
- (b) Document that the emergency plan has been reviewed with the beneficiary or representative and the individual staff person providing respite care; and
- (c) Develop a plan of care for the delivery of all respite services.

4231.8 The case manager shall coordinate the approval of respite services to ensure that it aligns with the goals of the PCSP. For respite provided for PCA services, the R.N. referenced in Subsections 4231.6 and 4231.7 shall conduct the supervision of the respite staff.

4231.9 To ensure the safety of the beneficiary, respite staff shall not leave the beneficiary unattended during the hours that respite services are authorized.

4231.10 Each respite services provider shall maintain all documentation including records documenting dates of training and the written emergency notification plan for a period no less than ten (10) years. The waiver beneficiary shall also receive a copy of the emergency notification plan and shall keep it at his or her home or place of residence.

4231.11 Respite services shall not be provided to beneficiaries who do not have primary caregivers who are responsible for the provision of the beneficiary's care on an ongoing basis.

4231.12 A waiver beneficiary may choose an individual or family member other than a primary caregiver, the beneficiary's spouse, or other legally responsible relative, or court-appointed guardian to provide respite services. Legally responsible relatives do not include parents of an adult child, so parents of an adult child are not precluded from providing respite services.

4232 PROGRAM SERVICES: RESPITE SERVICES

- 4232.1 Respite services are intended to relieve the beneficiary's primary caregiver to provide a range of activities associated with the PCA's role.
- 4232.2 Medicaid reimbursable respite services shall include:
- (a) Basic personal care such as bathing, grooming, and assistance with toileting or bedpan use;
 - (b) Assistance with prescribed, self-administered medication;
 - (c) Meal preparation in accordance with dietary guidelines and other cultural/religious dietary restrictions, and assistance with eating;
 - (d) Household tasks related to keeping the beneficiary's living areas in a condition that promotes the beneficiary's health, comfort, and safety; and
 - (e) Accompanying the beneficiary to medically related appointments.
- 4232.3 Medicaid reimbursable Respite services shall not include services that require the skills of a licensed professional, including, but not limited to, catheter insertion, procedures requiring sterile techniques, and medication administration.
- 4232.4 Medicaid reimbursable Respite services shall not include tasks usually performed by chore workers or homemakers, including cleaning of areas not occupied by the beneficiary; cleaning laundry for family members of the beneficiary; and shopping for items not used by the beneficiary.
- 4232.5 A unit of Medicaid reimbursable service for respite care shall be one (1) to twenty-four (24) hours spent performing allowable tasks.
- 4232.6 Medicaid reimbursable Respite services shall be limited to a maximum of four hundred and eighty (480) hours per year. Requirements for respite services in excess of the established limits shall be prior-authorized by the DHCF.
- 4232.7 Medicaid reimbursable Respite services shall not be billed in combination or at the same time as Personal Care Aide services.
- 4232.8 No waiver beneficiary shall receive Medicaid reimbursement for PCA services other than those provided by the in-home respite staff during the period of time which respite services are provided.

4233 SPECIFIC PROVIDER REQUIREMENTS: HOMEMAKER SERVICES

- 4233.1 In order to be reimbursed by Medicaid, homemaker services must be provided by the following Medicaid-enrolled providers:
- (a) A home care agency which meets the conditions of participation for home care agencies as set forth in 42 CFR part 484, by being enrolled as a Medicare provider, and complying with the requirements set forth in 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 *et seq.*); or
 - (b) A business with a general business license issued by the D.C. Department of Consumer and Regulatory Affairs (DCRA) to perform housekeeping services in the District of Columbia.
- 4233.2 In order to receive Medicaid reimbursement for homemaker services, each individual providing homemaker services shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Be able to successfully communicate with the beneficiary receiving EPD Waiver services;
 - (c) Pass a criminal background check;
 - (d) Obtain, and maintain an updated Cardiopulmonary Resuscitation (CPR) certificate; and
 - (e) Meet the qualification and training requirements pursuant to Subsections 4233.3 or 4233.4.
- 4233.3 In order to receive Medicaid reimbursement for homemaker services, a home care agency shall:
- (a) Require that all individual homemaker service staff be certified as a Home Health Aide in accordance with District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 93 of Title 17 DCMR; and
 - (b) Meet any ongoing training requirements required under the DOH's Home Health Aide certification requirements.
- 4233.4 In order to receive Medicaid reimbursement for homemaker services, a business with a general business license issued by the D.C. DCRA to provide housekeeping services shall:

- (a) Require that all individual homemaker staff shall obtain a minimum of eight (8) hours of training annually in the following areas:
- (1) Beneficiary rights;
 - (2) Communicating effectively with beneficiaries enrolled in the waiver;
 - (3) Preventing abuse, neglect, and exploitation;
 - (4) Controlling the spread of disease and infection;
 - (5) Changing linens and bed bug prevention;
 - (6) Safe handling of cleaning chemicals (use of gloves, goggles, or masks);
 - (7) Handling hazardous waste;
 - (8) Blood-borne pathogens and bodily fluids;
 - (9) Food preparation, handling, and storage; and
 - (10) Instructions on the following:
 - (A) Dusting;
 - (B) Maintenance of floors (mopping or vacuuming);
 - (C) Trash handling;
 - (D) Laundry and safe use of detergents;
 - (E) Cleaning the walls and ceiling; and
 - (F) Kitchen and bathroom cleaning and maintenance.

4233.5 Supervisory staff employed by the homemaker service provider shall develop a written homemaker service delivery plan (Plan of Care) and the beneficiary's case manager shall approve the service delivery plan before it is implemented.

4233.6 The homemaker service provider shall document in-home visits and telephone contacts in the beneficiary's service delivery plan at least within thirty (30) days of its home visit.

- 4233.7 A copy of the homemaker service delivery plan shall be shared with the case manager and kept on-file at the Home Care Agency or the homemaker service provider licensed to provide housekeeping services.
- 4233.8 Each provider of homemaker services shall maintain comprehensive records including the service delivery plans, and records identifying dates of training and topics covered in each employee's personnel file for a period of no less than ten (10) years.
- 4233.9 An individualized in-service training plan shall be developed and implemented for each staff person when performance evaluations indicate a need for more training.
- 4233.10 A waiver beneficiary may choose an individual or family member other than a beneficiary's spouse, other legally responsible relative, or court-appointed guardian to provide homemaker services. Legally responsible relatives do not include parents of an adult child, so parents of an adult child are not precluded from providing homemaker services.
- 4233.11 Homemaker services shall not duplicate the duties provided through PCA services or respite services.

4234 PROGRAM SERVICES: HOMEMAKER SERVICES

- 4234.1 Homemaker services shall only be provided in cases where neither the beneficiary nor anyone else in the household (*i.e.*, an unpaid family caregiver) is able to provide or deliver the service.
- 4234.2 Homemaker staff may perform the following tasks when providing homemaker services:
- (a) Food preparation and storage;
 - (b) General household cleaning such as:
 - (1) Cleaning bathrooms;
 - (2) Vacuuming;
 - (3) Dusting;
 - (4) Mopping floors;
 - (5) Sweeping floors;
 - (6) Bed making;

- (7) Linen changing;
- (8) Wiping appliances;
- (9) Washing dishes;
- (10) Doing laundry and ironing clothes; and

(c) Running errands necessary to maintain the beneficiary in the home (for example, shopping for food or essentials needed to clean the home; picking up medicine or mailing payments for utilities).

4234.3 Food preparation and storage shall consist of any tasks to promote maintaining a tidy kitchen including overseeing the proper storage of any groceries by ensuring that all perishable foods are stored in the freezer or fridge.

4234.4 A unit of service for homemaker services shall be one (1) hour spent performing the allowable task(s).

4235 SPECIFIC PROVIDER REQUIREMENTS: CHORE AIDE SERVICES

4235.1 In order to receive Medicaid reimbursement, Chore Aide services shall be provided by the following Medicaid-enrolled providers:

- (a) A home care agency which meets the conditions of participation for home care agencies as set forth in 42 CFR Part 484, by being enrolled as a Medicare provider, and complying with the requirements set forth in the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective Feb. 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*); or
- (b) A business with a general business license issued by the DCRA to perform housekeeping services in the District of Columbia.

4235.2 Each individual providing chore aide services shall:

- (a) Be at least eighteen (18) years of age;
- (b) Pass a criminal background check; and
- (c) Meet the qualification and training requirements pursuant to Subsections 4235.3 or 4235.4.

4235.3 In order to receive Medicaid reimbursement for chore aide services, a home care agency shall:

- (a) Require that all individual chore aides be certified as Home Health Aides in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 93 of Title 17 DCMR, and;
- (b) Meet any ongoing training requirements required under the Department of Health's Home Health Aide certification requirements.

4235.4 In order to receive Medicaid reimbursement for chore aide services, a business with a general business license issued by the DCRA to provide housekeeping services shall:

- (a) Require that all individual chore aides shall obtain a minimum of eight (8) hours of training annually in the following areas:
 - (1) Beneficiary Rights;
 - (2) Communicating effectively with beneficiaries enrolled in the waiver;
 - (3) Preventing Abuse, Neglect, and Exploitation;
 - (4) Controlling the Spread of Disease and Infection;
 - (5) Changing linens and bed bug prevention;
 - (6) Safe handling of cleaning chemicals (use of gloves, goggles/masks);
 - (7) Handling hazardous waste;
 - (8) Blood-borne pathogens and bodily fluids; and
 - (9) Instruction on the following:
 - (A) Maintenance of floors (mopping/vacuuuming);
 - (B) Trash handling;
 - (C) Cleaning the walls and ceiling; and
 - (D) Kitchen and bathroom cleaning and maintenance.

- 4235.5 Supervisory staff employed by the provider shall develop a written chore aide service delivery plan (Plan of Care), and the beneficiary's case manager shall approve the service delivery plan before it is implemented.
- 4235.6 The chore aide provider shall document in-home visits and telephone contacts in the beneficiary's service delivery plan at least within thirty (30) days of its home visit.
- 4235.7 A copy of the chore aide service delivery plan shall be shared with the case manager and kept on-file at the Home Care Agency or the chore aide service provider licensed to provide housekeeping services.
- 4235.8 Each provider of chore aide services shall maintain comprehensive records including the service delivery plans, and records identifying dates of training and topics covered in each employee's personnel file for a period of no less than ten (10) years.
- 4235.9 An individualized in-service training plan shall be developed and implemented for each chore aide when performance evaluations indicate a need for more training.
- 4235.10 A chore aide service provider shall provide a pre- and post-cleaning inspection of the home or place of residence with documentation indicating that the home environment is in a state that can be maintained by ongoing and routine housekeeping.
- 4235.11 Each home care agency or business with a general business license issued by DCRA to provide housekeeping services shall ensure that the appropriate supervision of chore aide staff is conducted by an individual who has the following qualifications:
- (a) Be trained to evaluate the activities of chore aide staff;
 - (b) Has at least two (2) years of experience supervising the activities of chore aides; and
 - (c) Has been trained in basic supervision by the home care agency, or the chore aide service provider licensed to provide housekeeping services.
- 4235.12 An EPD waiver beneficiary may choose an individual or family member other than a beneficiary's spouse, other legally responsible relative, or court-appointed guardian to provide chore aide services. Legally responsible relatives do not include parents of an adult child, so parents of an adult child shall not be precluded from providing chore aide services.

4236 PROGRAM SERVICES: CHORE AIDE SERVICES

4236.1 In order to receive Medicaid reimbursement, a unit of service for chore aide services shall be one (1) hour spent performing allowable task(s). The maximum amount of service permitted under the waiver shall be thirty-two (32) units per beneficiary for the five-year Waiver period. Service shall be limited to thirty two (32) units per beneficiary.

4236.2 Allowable tasks for chore aide services include the following:

- (a) Washing floors;
- (b) Washing windows and walls;
- (c) Tacking down loose rugs and tiles;
- (d) Moving items or furniture in order to provide safe access and egress;
- (e) Trash removal;
- (f) Removal of animal waste; and
- (g) Any other activity designed to bring the environment up to a cleanliness and safety level to enable it to be maintained by ongoing and regular housekeeping.

4236.3 Prohibited tasks for chore aide service include the following:

- (a) Hands-on care normally provided by personal care aides;
- (b) Housekeeping duties normally provided under the Homemaker service description; and
- (c) Respite services.

4237 SPECIFIC PROVIDER REQUIREMENTS: ASSISTED LIVING

4237.1 In order to receive Medicaid reimbursement, each facility providing assisted living services shall be licensed by the District of Columbia DOH and comply with the requirements set forth in the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.*) and attendant rules.

4237.2 In accordance with the DOH licensure requirements, each assisted living provider shall develop an individualized service plan (Plan of Care) that identifies the services to be included for the beneficiary, and ensure that the plan is shared with the beneficiary's case manager to facilitate coordination of all services received under the EPD Waiver program's PCSP.

4237.3 In accordance with the Home and Community-Based setting requirements described in Subsections 4200.6 and 4200.7, each assisted living residence shall support the resident's dignity, privacy, independence, individuality, freedom of choice, decision making, spirituality and involvement of family and friends.

4238 PROGRAM SERVICES: ASSISTED LIVING SERVICES

4238.1 In order to receive Medicaid reimbursement, assisted living services shall be personal care and supportive services that are furnished to beneficiaries who reside in a homelike, non-institutional setting that includes twenty-four (24) hour on-site response capability to meet any scheduled or unpredictable needs of the beneficiary and to provide supervision, safety, and security.

4238.2 Assisted living services shall consist of any combination of the following services that meet the beneficiary's needs as outlined in the written PCSP:

- (a) Twenty-four (24) hour supervision and oversight to ensure the well-being and safety of beneficiaries;
- (b) Assistance with activities of daily living and instrumental activities of daily living, such as PCA services to meet the scheduled and unscheduled service needs of the beneficiaries;
- (c) Laundry and housekeeping tasks that a beneficiary is unable to perform and is normally provided under the Chore Aide and Homemaker services benefit;
- (d) Coordinating social and recreational activities;
- (e) Coordinating activities to enable access to health and social services, including social work, nursing, rehabilitative, hospice, medical, dental, dietary, counseling and psychiatric services; and
- (f) Coordinating scheduled transportation to community-based activities.

4238.3 Consistent with Subsection 4238.2(e), the assisted living provider shall coordinate the delivery of all services provided by third parties. A third party may include home care agencies, hospitals, or clinics or Adult Day Health providers.

4238.4 In situations where a beneficiary is prior authorized for PCA services to supplement services provided by the assisted living provider, the assisted living provider shall facilitate coordination by providing a copy of the individualized service plan (Plan of Care) to the case manager and the home care agency providing PCA services.

4239 SPECIFIC PROVIDER REQUIREMENTS: EAA

- 4239.1 In order to receive Medicaid reimbursement, the case manager shall ensure that a home adaptation assessment is conducted by a licensed physician, occupational therapist, or physical therapist per a physician's order, prior to ordering EAA service(s) included in the beneficiary's PCSP.
- 4239.2 In order to receive Medicaid reimbursement, the home adaptation assessment shall include, but not be limited to, the following:
- (a) Consulting (phone or in-person) with the beneficiary seeking EAA services, the case manager, and support team;
 - (b) Conducting an on-site assessment to address the beneficiary's accessibility needs and what modifications will be needed to his or her residence; and
 - (c) Drafting an EAA written report which includes a summary of the on-site assessment and recommendations of the home modifications based upon the beneficiary's needs.
- 4239.3 No EAA services shall be approved or reimbursed by Medicaid for a beneficiary seeking EAA services who qualifies for the Handicap Accessibility Improvement Program (HAIP) administered by the District of Columbia Department of Housing and Community Development (DHCD). The only qualified applicant for the HAIP is a certified home owner. An applicant who is a renter does not need to apply for HAIP.
- 4239.4 The case manager shall assist all eligible and certified home owners to apply for the HAIP program. If a home owner is denied participation in the program, he or she must provide a copy of the denial letter to the case manager.
- 4239.5 In the case of rental property or leased property, no EAA services shall be approved or reimbursed by Medicaid unless:
- (a) The current rental, lease agreement, or other residential agreement or contract governing the beneficiary's current residence is thoroughly examined by the Case Manager and DHCF or its designee to determine that the services are not the responsibility of the property owner or manager; and
 - (b) A signed release was obtained from the management of the property authorizing the EAA home modifications to be made.
- 4239.6 Prior to initiating EAA services, the case manager shall assist the beneficiary seeking the receipt of EAA services to obtain an evaluation or home inspection from a Certified Third Party Construction Inspector or a Licensed Contractor.

- 4239.7 The Certified Third Party Construction Inspector shall be certified under the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Third Party Inspector Program.
- 4239.8 The Licensed Contractor shall be licensed to do business in the District of Columbia by the DCRA, or shall be licensed to do business in the jurisdiction in which EAA services are to be provided.
- 4239.9 The evaluation or home inspection shall:
- (a) Determine that the beneficiary's residence is structurally sound;
 - (b) Determine whether the residence can accommodate the recommended EAA services;
 - (c) Identify any construction stipulations; and
 - (d) Recommend how the EAA home modifications should be constructed.
- 4239.10 After receiving the evaluation by the Certified Third Party Construction Inspector, or the Licensed Contractor, the case manager shall assist the beneficiary seeking EAA services to secure three (3) bids from building contractors for cost comparison of EAA services.
- 4239.11 DHCF may review documentation for approval when three (3) bids cannot be obtained for cost comparison.
- 4239.12 Each bid submitted by the building contractor for consideration for the receipt of a contract for the delivery of EAA services shall meet the following:
- (a) Accept the job specifications contained in the home inspection by the Certified Third Party Construction Inspector, or the Licensed Contractor, unless otherwise agreed to and determined by DHCF;
 - (b) Be responsible for the costs associated with bringing to completion the EAA modifications described in the home adaptation assessment, including but not limited to, the costs of all construction materials, labor, and any subsequent inspections should the work be found to be substandard.
- 4239.13 Each building contractor shall be licensed to conduct business in the District of Columbia by the District of Columbia DCRA, or licensed to do business in the jurisdiction where the EEA adaptation services are provided. Each building contractor shall ensure that all construction staff has the training and skill level required to make the allowable in-home modifications.

- 4239.14 Services shall only be authorized for Medicaid reimbursement in accordance with the following provider requirements:
- (a) For home-owners, verification of the denial letter issued by the DHCD HAIP program;
 - (b) Identification in the PCSP of the EAA service providers (Certified Third Party Contractor/Licensed Contractor and building contractor);
 - (c) Receipt of a copy of the home inspection;
 - (d) Receipt of a copy of the three (3) bids or bid submitted to the case manager for consideration of the contract to provide EAA services; and
 - (e) Verification that the EAA home modifications do not conflict with the service limitations outlined in Section 4240.

4239.15 EAA service providers shall be exempt from the annual tuberculosis (TB) testing requirements.

4239.16 The EAA providers shall maintain a copy of the beneficiary's home inspection, and a copy of the bids submitted, and related documentation, for a period not to exceed ten (10) years.

4240 PROGRAM SERVICES: EAA

4240.1 In order to receive Medicaid reimbursement, in-home modifications for EAA services include, but are not limited to, the following:

- (a) Installation of ramps and grab-bars or hand-rails;
- (b) Widening of doorways;
- (c) Installation of lift systems;
- (d) Modifications of bathroom facilities; and
- (e) Installation of specialized electric and plumbing systems necessary to accommodate medical equipment and supplies.

4240.2 Modifications or improvements to the home which are of general utility, meaning having no direct medical or remedial benefit to the recipient, shall not be reimbursed by Medicaid as allowable modifications for waiver services. Examples of disallowed EAA modifications include, but are not limited to, the following: carpeting; roof repair; and installation of central air conditioning.

4240.3 In-home modifications adding to the total square footage of the home shall be excluded from Medicaid reimbursement this benefit, except when necessary to complete an adaptation as determined by the Case Manager and DHCF or its designee.

4241 SPECIFIC PROVIDER REQUIREMENTS: ADULT DAY HEALTH

4241.1 In order to receive Medicaid reimbursement, an Adult Day Health provider under the Waiver shall meet the requirements set forth in Chapter 97 (Adult Day Health Program Services) of Title 29 DCMR. These include, but shall not be limited to:

- (a) Provider qualifications;
- (b) Program Administration; and
- (c) Staffing requirements.

4241.2 Each Adult Day Health Program (ADHP) waiver provider shall ensure that they meet all the HCBS setting requirements consistent with Subsection 4200.6 and DHCF's Provider Readiness Review process.

4241.3 Each ADHP waiver provider shall ensure that an ADHP plan of care is developed for each beneficiary that outlines services to be received at the ADHP.

4241.4 Each ADHP waiver provider shall ensure that the ADHP plan of care is shared with the case manager and other individual service providers to facilitate the coordination of all services for the beneficiary under the PCSP.

4241.5 The plan of care shall incorporate the goals and principles of the PCSP and be developed in accordance with the ADHP Plan of Care requirements set forth in Chapter 97 of Title 29 DCMR.

4242 PROGRAM SERVICES: ADULT DAY HEALTH

4242.1 Adult day health services shall encourage adults enrolled in the EPD Waiver to live in the community by offering non-residential medical supports and supervised, therapeutic activities in an integrated community setting, to foster opportunities for community inclusion, and to deter more costly facility-based care.

4242.2 In order to receive Medicaid reimbursement, Adult Day Health services shall consist of the following:

- (a) Medical and nursing consultation services including health counseling to improve and maintain the health, safety, and psycho-social needs of the beneficiary;
- (b) Individual and group therapeutic activities which may include various social, recreational, and educational activities;
- (c) Social service supports including consultations to determine the beneficiary's need for services and, guidance through counseling and teaching on matters related to the beneficiary's health, safety, and general welfare;
- (d) Direct care supports including personal care assistance, and offering guidance in performing self-care and activities of daily living;
- (e) Instruction on accident prevention and the use of special aides;
- (f) Medication administration services provided by a R.N.;
- (g) Nutrition services; and
- (h) Coordination of transportation services for therapeutic activities that are scheduled off-site.

4242.3 Consistent with Chapter 97 of Title 29 DCMR, ADHP Waiver providers shall not be reimbursed separately for transportation services, including therapeutic activities occurring off-site. However, providers shall coordinate transportation provided under the DHCF non-emergency medical transportation benefit.

4242.4 All services shall be provided in accordance with the requirements set forth in Chapter 97 of Title 29 DCMR.

4243 SPECIFIC PROVIDER REQUIREMENTS: PHYSICAL THERAPY

4243.1 Physical Therapy services shall only be reimbursed by Medicaid if they are provided by the following Medicaid-enrolled providers:

- (a) A home care agency licensed pursuant to 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 *et seq.*), and implementing rules; or
- (b) An independent licensed physical therapist.

- 4243.2 Physical therapy services shall be reimbursed by Medicaid if they are provided by a physical therapist or a physical therapy assistant working under the direct supervision of a physical therapist.
- 4243.3 In order to receive Medicaid reimbursement, all practitioners shall meet the following requirements:
- (a) Be licensed to practice physical therapy in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 67 (Physical Therapy) of Title 17 DCMR; or
 - (b) Be a physical therapy assistant who is licensed to practice as a physical therapy assistant in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 82 (Physical Therapy Assistants) of Title 17 DCMR.
- 4243.4 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from DHCF or its designee prior to providing, or allowing any professional to provide physical therapy services. In its request for prior authorization, the Medicaid provider shall document the following:
- (a) The EPD Waiver beneficiary's need for physical therapy services as demonstrated by a physician's order; and
 - (b) The name of the professional or home care agency that will provide the physical therapy services.
- 4243.5 In order to be eligible for Medicaid reimbursement, each individual providing physical therapy services shall participate in PCSP and interdisciplinary team meetings to provide consultative services and recommendations to focus on how the beneficiary is doing in achieving the functional goals that are important to him or her;
- 4243.6 Each Medicaid provider shall maintain the following documents for monitoring and audit reviews:
- (a) The physician's order;
 - (b) A copy of the physical therapy assessment and therapy plan developed in accordance with the requirements of this Section; and

- (c) Any documents required to be maintained by DHCF as specified in Section 4255 (Audits and Monitoring/Oversight Reviews).

4244 PROGRAM SERVICES: PHYSICAL THERAPY

- 4244.1 Physical Therapy (PT) services shall maximize independence, prevent further disability, maintain health, and the beneficiary's functionality, and be targeted at the treatment of identified physical dysfunction or the degree to which pain associated with movement can be reduced.
- 4244.2 Physical therapy services shall be provided in accordance with the beneficiary's PCSP and delivered in the beneficiary's home or in a day service setting.
- 4244.3 Each physical therapy professional shall conduct an assessment of physical therapy needs within the first four (4) hours of service delivery, and develop a therapy plan (Plan of Care) to provide services.
- 4244.4 The therapy plan shall include the anticipated and measurable, functional outcomes, based upon what is important to and for the beneficiary as reflected in his or her person-centered goals in his or her PCSP and a schedule of approved physical therapy services to be provided.
- 4244.5 The therapy plan shall be submitted by the Medicaid provider to the beneficiary or authorized representative, and the case manager before services are delivered.
- 4244.6 Medicaid reimbursable physical therapy services shall consist of the following ongoing activities:
- (a) Conducting an initial assessment and annual re-assessment;
 - (b) Consulting with the beneficiary, his or her family, caregivers and interdisciplinary team to develop the therapy plan;
 - (c) Implementing therapies described in the therapy plan;
 - (d) Recording progress notes during each visit which shall contain the following:
 - (1) Progress in meeting each goal in the therapy plan;
 - (2) Any unusual health or behavioral events or change in status;
 - (3) The start and end time of any services received by the beneficiary; and

- (4) Any matter requiring follow-up on the part of the service provider, case manager, or DHCF.
- (e) Developing quarterly reports based on the progress notes and indicating progress in meeting each goal in the therapy plan, and any progress made on matters requiring follow-up in the progress notes;
- (f) Submitting quarterly reports to DHCF, which shall be uploaded in the EPD Waiver electronic case management system;
- (g) Routinely assessing (at least annually and more frequently as needed) the appropriateness and quality of adaptive equipment to ensure it addresses the beneficiary's needs;
- (h) Completing documentation required to obtain or repair adaptive equipment in accordance with insurance guidelines and Medicare and Medicaid guidelines, including required timelines for submission;
- (i) Conducting periodic examinations (at least annually and more frequently as needed) and modified treatments for the beneficiary, as needed to determine which services are most appropriate to enhance the beneficiary's well-being and meet the therapeutic goals; and
- (j) Updating the therapy plan and communicating with the case manager to make any updates to the PCSP with any modifications to the therapy plan.

4245 SPECIFIC PROVIDER REQUIREMENTS: OCCUPATIONAL THERAPY

4245.1 Occupational Therapy services shall only be reimbursed by Medicaid if they are provided by the following Medicaid-enrolled providers:

- (a) A home care agency licensed pursuant to 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 *et seq.*), and implementing rules; or
- (b) An independent licensed occupational therapist.

4245.2 Medicaid reimbursable occupational therapy services shall be provided by an occupational therapist or an occupational therapy assistant working under the direct supervision of an occupational therapist.

4245.3 In order to receive Medicaid reimbursement all practitioners shall meet the following requirements:

- (a) Be licensed to practice occupational therapy in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 63 (Occupational Therapy) of Title 17 DCMR; or
- (b) Be an occupational therapy assistant who is licensed to practice as an occupational therapy assistant in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 73 (Occupational Therapy Assistants) of Title 17 DCMR.

4245.4 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from the DHCF or its designee prior to providing, or allowing any professional to provide occupational therapy services. In its request for prior authorization, the Medicaid provider shall document the following:

- (a) The EPD Waiver beneficiary's need for occupational therapy services as demonstrated by a physician's order; and
- (b) The name of the professional or home care agency that will provide the occupational therapy services.

4245.5 In order to be eligible for Medicaid reimbursement, each individual providing occupational therapy services shall participate in the PCSP and interdisciplinary team meetings to provide consultative services and recommendations specific to the expert content with a focus on how the beneficiary is doing in achieving the functional goals that are important to him or her.

4245.6 Each Medicaid provider shall maintain the following documents for monitoring and audit reviews:

- (a) A physician's order;
- (b) A copy of the occupational therapy assessment and therapy plan developed in accordance with the requirements of this section; and
- (c) Any documents required to be maintained by DHCF per Section 4255 (Audits and Monitoring/Oversight Reviews).

4246 PROGRAM SERVICES: OCCUPATIONAL THERAPY

4246.1 In order to receive Medicaid reimbursement, Occupational Therapy (OT) services shall be designed to maximize independence, prevent further disability, maintain health, and the beneficiary's functionality.

- 4246.2 Occupational therapy services shall be provided in accordance with the beneficiary's PCSP and delivered in the beneficiary's home or in a day service setting.
- 4246.3 Each occupational therapy professional shall conduct an assessment of the occupational therapy needs within the first four (4) hours of service delivery, and develop a therapy plan (Plan of Care) to provide services.
- 4246.4 The therapy plan shall include the anticipated and measurable, functional outcomes, based upon what is important to and for the beneficiary as reflected in his or her person-centered goals in his or her PCSP and a schedule of approved occupational therapy services to be provided, and shall be submitted by the Medicaid provider to the case manager before services are delivered.
- 4246.5 Medicaid reimbursable occupational therapy services shall consist of the following ongoing activities:
- (a) Conducting an initial assessment and annual re-assessment;
 - (b) Consulting with the beneficiary, his or her family, caregivers and interdisciplinary team to develop the therapy plan;
 - (c) Implementing therapies described in the therapy plan;
 - (d) Recording progress notes during each visit, which shall contain the following:
 - (1) Progress in meeting each goal in the therapy plan;
 - (2) Any unusual health or behavioral events or change in status;
 - (3) The start and end time of any services received by the beneficiary; and
 - (4) Any matter requiring follow-up on the part of the service provider, case manager, or DHCF.
 - (e) Developing quarterly reports based on the progress notes and indicating progress in meeting each goal in the therapy plan, and any progress made on matters requiring follow-up in the progress notes;
 - (f) Submitting quarterly reports to DHCF, which shall be uploaded in the EPD Waiver electronic case management system;

- (g) Routinely assessing (at least annually and more frequently as needed) the appropriateness and quality of adaptive equipment to ensure it addresses the beneficiary's needs;
- (h) Completing documentation required to obtain or repair adaptive equipment in accordance with insurance guidelines and Medicare and Medicaid guidelines, including required timelines for submission;
- (i) Conducting periodic examinations (at least annually and more frequently as needed) and modified treatments for the beneficiary, as needed to determine which services are most appropriate to enhance the beneficiary's well-being and meet the therapeutic goals; and
- (j) Updating the therapy plan and communicating with the case manager to make any updates to the PCSP with any modifications to the therapy plan.

4247 SPECIFIC PROVIDER REQUIREMENTS: INDIVIDUAL-DIRECTED GOODS AND SERVICES

4247.1 In order to receive Medicaid reimbursement, individual-directed goods and services shall only be provided to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.

4247.2 In order to receive Medicaid reimbursement, all individuals and vendors providing individual-directed goods and services shall meet the following minimum qualifications:

- (a) All individuals providing individual-directed goods and services shall be at least eighteen (18) years of age;
- (b) All individuals and vendors providing individual-directed goods and services shall be able to demonstrate to the participant that:
 - (1) The individual or vendor has the capacity to perform the requested work;
 - (2) The individual or vendor has the ability to successfully communicate with the participant; and
 - (3) The individual or vendor has all the necessary professional and/or commercial licenses required by federal and District law.

4247.3 In order to receive Medicaid reimbursement individuals and vendors providing non-medical transportation as an individual-directed service shall meet the following additional qualifications:

- (a) The individual or vendor shall have a valid driver's license; and
- (b) The individual or vendor shall have the minimum amounts of property damage liability, third party personal liability, uninsured motorist bodily injury, and uninsured motorist property damage insurance coverage required by the District of Columbia for the type of vehicle used to provide the transportation, in accordance with the Compulsory/No-Fault Motor Vehicle Insurance Act, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code §§ 31-2401 *et seq.*).

4247.4 No individual or vendor shall be reimbursed by Medicaid for any individual-directed good or service that is not:

- (a) Documented in the participant's PCSP and participant-directed services (PDS) budget; and
- (b) Approved by the *Services My Way* Program Coordinator.

4247.5 An individual or vendor selected by a participant to provide individual-directed goods or services on a recurrent basis may be required to enter into a Medicaid provider agreement with DHCF prior to providing the goods or services. The Medicaid provider agreement shall be executed by the Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS)-Support Broker entity supporting the *Services My Way* program on behalf of DHCF.

4247.6 The VF/EA FMS-Support Broker entity shall verify that an individual or vendor selected by the participant to provide individual-directed goods and services meets all applicable requirements set forth in Subsections 4247.2 and 4247.3 at the time of enrollment into the VF/EA FMS-Support Broker entity's provider payment system and thereafter, as necessary.

4248 PROGRAM SERVICES: INDIVIDUAL-DIRECTED GOODS AND SERVICES

4248.1 Individual-directed goods and services are only available to EPD Waiver beneficiaries who are enrolled as participants in the *Services My Way* program, and are purchased from the participant's PDS budget.

4248.2 Individual-directed goods and services are services, equipment or supplies not otherwise provided through the EPD Waiver or the Medicaid State Plan that address an identified need in the participant's PCSP, including improving and maintaining the participant's opportunities for full membership in the community. Individual-directed goods and services shall meet the following requirements in order to be reimbursed by Medicaid:

- (a) The requested item or service would decrease the participant's need for other Medicaid services;
- (b) The requested item or service would promote the participant's inclusion in the community; or
- (c) The requested item or service would increase the participant's safety in the home environment.

4248.3 Allowable goods and services shall include, but not be limited to, the following:

- (a) Cleaning services from firms or individuals to clean the participant's personal areas including bedroom, bathroom, kitchen, etc., only if necessary in addition to those services otherwise available through the EPD Waiver;
- (b) Food preparation and delivery services, including grocery delivery and delivery of prepared foods (but not payment for the food itself);
- (c) Transportation services not currently available under Medicaid or the District's accessible transportation programs or through natural supports that are related to activities of daily living, and meet an objective outlined in the participant's PCSP;
- (d) Small electric appliances which allow the participant to safely prepare meals;
- (e) Laundry services;
- (f) The cost of changing locks at the participant's home, as necessary, when a participant-directed worker (PDW) stops working for the participant; and
- (g) Maintenance of items that meet the criteria of allowable individual-directed goods described in § 4248.2.

4248.4 Payment for allowable transportation services shall be made in the form of reimbursement for mileage documented on a Mileage Reporting Form provided by DHCF or its agent or reimbursement for public transit costs documented as specified by DHCF or its agent and submitted to the VF/EA FMS-Support Broker entity.

4248.5 For purposes of Medicaid reimbursement, non-allowable goods and services shall include, but not be limited to, the following:

- (a) Gifts for PDWs, family or friends, including bonus payments to PDWs;

- (b) Loans to PDWs, family or friends;
- (c) Food, beverages and nutritional supplements;
- (d) Entertainment equipment or supplies such as videos, VCRs, televisions, stereos, CDs, DVDs, audio and video tapes;
- (e) Air conditioners, heaters, fans and similar items;
- (f) Electronic devices that do not meet the requirements of § 4248.2 and do not meet an objective outlined in the participant's PCSP;
- (g) Illegal drugs;
- (h) Alcoholic beverages or tobacco products;
- (i) Costs associated with advertising for prospective PDWs;
- (j) Costs associated with travel (airfare, lodging, meals, etc.) for vacations or entertainment;
- (k) Utility, rent or mortgage payments;
- (l) Clothing or shoes;
- (m) Comforters, towels, linens or drapes;
- (n) Paint or related supplies;
- (o) Furniture or other household furnishings;
- (p) Cleaning or laundry for other household members or areas of a home that are not used as part of the participant's personal care;
- (q) Large household or kitchen appliances such as washers, dryers, dishwashers, refrigerators, or freezers;
- (r) Exercise equipment;
- (s) Medications, vitamins or herbal supplements;
- (t) Experimental or prohibited treatments;
- (u) Laundry detergent and household cleaning supplies;

- (v) Vehicle expenses, including routine maintenance, repairs, or insurance costs;
- (w) Transportation services that are otherwise available under Medicaid or the District's accessible transportation programs or through natural supports or that are not related to activities of daily living;
- (x) Landscaping and yard work;
- (y) Pet care and supplies, except when provided for service animals; and
- (z) Massages, manicures or pedicures.

4248.6 Participants in the *Services My Way* program may purchase individual-directed goods and services that are included in their PCSP, meet the requirements of Subsections 4248.2 and 4248.3, and are within their PDS budget to purchase.

4248.7 Individual-directed goods and services shall be documented in the participant's PDS budget and PCSP. The participant's support broker shall assist participants to revise their PDS budgets, as necessary, to account for new, appropriate individual-directed goods and services they would like to purchase. All revisions to a participant's PDS budget to account for new, appropriate individual-directed goods and services shall be accompanied by justification supporting the revision.

4248.8 Upon revising a PDS budget to reflect a new individual-directed good or service, the support broker shall submit the revised PDS budget and justification to the *Services My Way* Program Coordinator for approval.

4248.9 The *Services My Way* Program Coordinator shall review all requested individual-directed goods and services.

4248.10 The VF/EA FMS-Support Broker entity shall only authorize payment of invoices submitted for individual-directed goods and services that are included in the participant's PCSP and PDS budget and that have been approved by the *Services My Way* Program Coordinator.

4249 SPECIFIC PROVIDER REQUIREMENTS: PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES

4249.1 Participant Directed Community Support Services (PDCS) services shall only be reimbursed to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.

4249.2 Qualified PDWs shall provide PDCS services as employees of *Services My Way* participants.

- 4249.3 Medicaid reimbursable PDCS services may be provided by family members and individuals other than a participant's spouse, other legally responsible relative, or court-appointed guardian. A legally responsible relative does not include parents of adult children, so parents of adult children are not precluded from providing PDCS services. Each family member providing PDCS services shall comply with the requirements set forth in this chapter and Chapter 101 of this title.
- 4249.4 In order to be reimbursed by Medicaid, all PDWs shall meet the following qualifications:
- (a) Be at least eighteen (18) years of age;
 - (b) Complete and pass a criminal background check in accordance with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999, as amended by Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, April 13, 2002 (D.C. Law 14-98; D.C. Official Code §§ 44-551 *et seq.* (2016 Repl.));
 - (c) Receive customized training provided by the participant or the participant's authorized representative that is related to the participant's functional needs and goals as outlined in the PCSP;
 - (d) Be able and willing to perform the service-related responsibilities outlined in the participant's PCSP; and
 - (e) Be certified in cardiopulmonary resuscitation (CPR) and First Aid through an in-person training course approved by the American Red Cross or an alternative course approved by the *Services My Way* Program Coordinator and maintain current certifications.
- 4249.5 *Services My Way* participants shall not serve as PDWs.
- 4249.6 The VF/EA FMS-Support Broker entity shall be responsible for verifying that criminal background checks are conducted on all prospective PDWs in accordance with Subsection 4249.4(b), and providing participants, authorized representatives, prospective PDWs, and the *Services My Way* Program Coordinator with the results of all criminal background checks performed on prospective PDWs.
- 4249.7 The participant, or the participant's authorized representative if designated as the "common law employer" of the PDW, shall verify that a prospective PDW meets all qualifications set forth in Subsection 4249.4 prior to hiring the PDW to provide PDCS services.

- 4249.8 The VF/EA FMS-Support Broker entity shall verify that a PDW meets all qualifications set forth in Subsection 4249.4 prior to enrolling the PDW into its payroll system.
- 4249.9 The VF/EA FMS-Support Broker entity shall execute a Medicaid provider agreement with each PDW on behalf of DHCF at the time a PDW is enrolled into its payroll system.
- 4250 PROGRAM SERVICES: PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES**
- 4250.1 Medicaid will only reimburse PDCS services for EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.
- 4250.2 In order to receive Medicaid reimbursement, PDCS services shall be detailed in the participant's PCSP and PDS budget and shall be designed to promote independence and ensure the health, welfare, and safety of the participant.
- 4250.3 The participant or his or her authorized representative, as applicable, shall serve a "common law employer" of the PDW providing services. In the role of "common law employer," the participant or authorized representative shall be responsible for recruiting, hiring, supervising and discharging PDWs providing PDCS services.
- 4250.4 Supports shall be available to assist the participant or representative-employer with his or her own employer-related responsibilities as described in Subsection 4250.3 through the VF/EA FMS-Support Broker entity.
- 4250.5 PDCS services shall include cueing and assistance with activities of daily living and instrumental activities of daily living.
- 4250.6 All PDCS services provided by a PDW shall be prior authorized by DHCF or its agent in order to be reimbursed under the *Services My Way* program.
- 4250.7 To be eligible for PDCS services, a participant shall be in receipt of a service authorization for PCA from DHCF or its designated agent that specifies the amount, duration, and scope of services authorized to be provided to the beneficiary, in accordance with 29 DCMR § 5003.
- 4250.8 Payment for PDCS services shall be provided in accordance with the participant's PDS budget, at an hourly wage set by the participant or representative-employer which falls within the wage range established by DHCF as set forth in Subsection 4250.9.
- 4250.9 The hourly wage paid to a PDW shall be no lower than the living wage in the District, set in accordance with the Living Wage Act of 2006, effective June 8,

2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.*), and no higher than the wage paid by DHCF for services provided by a personal care aide in accordance with Chapter 42 of Title 29 DCMR.

- 4250.10 PDCS services shall not include the following:
- (a) Services that require the skills of a licensed professional, as defined in 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.*); or
 - (b) Tasks usually performed by chore workers or homemakers, such as cleaning of areas not occupied by the participant, laundry for family members, shopping for items not used by the participant, or money management.
- 4250.11 An agency-based provider of personal care aide services shall not be designated as an emergency back-up provider of PDCS services.
- 4250.12 In order to ensure PDCS services are provided in a manner that ensures the participant's health and safety, if a participant has been assessed for one hundred twelve (112) or more hours of PCA services per week in accordance with 29 DCMR § 5003, PDCS services must be provided by at least two (2) PDWs each week.

4251 SPECIFIC PROVIDER REQUIREMENTS: COMMUNITY TRANSITION SERVICES

- 4251.1 Each case manager providing Community Transition services shall:
- (a) Work with the beneficiary to identify household items needed to facilitate transition to the community;
 - (b) Work with the vendor to ensure that the beneficiary has access to the identified household items to facilitate a successful transition to the community;
 - (c) Complete and forward the beneficiary's demographic information on documents provided by DHCF, or its designee;
 - (d) Submit a purchase order /transition fund request to DHCF or its designee for processing;
 - (e) Act as primary point of contact with DHCF and the vendor for coordination of transition payments;

- (f) Schedule pick-up of checks from the vendor's site;
- (g) Keep records to ensure that beneficiary's purchase order requests do not exceed the maximum amount of five thousand (\$5,000) allowed per beneficiary; and
- (h) Provide documentation of all services provided, and beneficiary records to be made available to DHCF or its designee for monitoring and oversight and/or audit reviews.

4251.2 Community Transition services shall not be provided to waiver beneficiaries who:

- (a) Are not transitioning to the community from a long term care facility; or
- (b) Have duplicative household set-up items in their possession.

4252 PROGRAM SERVICES: COMMUNITY TRANSITION SERVICES

4252.1 Community Transition Services are non-recurring set-up expenses for beneficiaries who are transitioning from an institution or other long term care facility to a more integrated and less restrictive community setting. Allowable expenses are those necessary to enable an individual to establish a basic household that does not constitute room and board.

4252.2 Household set-up expenses provided under community transition services may include the following:

- (a) Rental application fees and security deposits in the amount of the first month's rent or greater that are required to obtain a lease on an apartment or home;
- (b) Essential household furnishings and moving expenses required to occupy and use a community domicile, including furniture, window coverings, food preparation items, and bed/bath linens;
- (c) Set-up fees or deposits for utility or service access, including telephone, electricity, heating and water;
- (d) Services necessary for the individual's health and safety such as pest eradication and one-time cleaning prior to occupancy;
- (e) Moving expenses;
- (f) Necessary home accessibility adaptations; and,
- (g) Activities to assess need, arrange for, and procure needed resources.

- 4252.3 Community Transition Services are furnished only to the extent that they are reasonable and necessary as determined through the transition planning process, and clearly identified in the beneficiary's transition plan or PCSP once they are enrolled in the EPD Waiver.
- 4252.4 The household set-up items shall be approved by the Case Manager as part of the beneficiary's PCSP.
- 4252.5 Community Transition Services for the household set up items specified under § 4252.2 shall be provided up to an amount of five thousand dollars (\$5,000) and may be used as determined in the transition plan development, from the time a tentative discharge date from the long term care facility has been established and EPD Waiver eligibility has been established.
- 4252.6 Community Transition funds shall be utilized for a period not to exceed one hundred and twenty days (120) before discharge and up to six (6) months after discharge from an institution or long term care facility.

4253 TERMINATIONS AND ALTERNATIVE SANCTIONS

- 4253.1 In order to qualify for Medicaid reimbursement, EPD Waiver Providers shall comply with programmatic requirements as part of its Provider Readiness Review and enrollment. The programmatic requirements include adherence to acceptable standards in the following areas:
- (a) Service Delivery as governed by the provider requirements and duties established in this chapter;
 - (b) Program administration as governed under mandated policies and procedures;
 - (c) EPD Waiver-related Performance Measures;
 - (d) Staffing and training; and
 - (e) Home and Community Based Services (HCBS) setting requirements.
- 4253.2 In accordance with the approved Waiver, DHCF may impose alternative sanctions against an EPD Waiver Provider in response to receiving complaints and/or incident reports via the electronic case management system or EPD waiver complaint database, or upon recommendation by the Department's Division of Program Integrity or Long Term Care Administration's EPD Waiver Monitoring Unit.
- 4253.3 DHCF shall determine the appropriateness of alternative sanctions against a Waiver provider based on the following factors:

- (a) Seriousness of the violation(s);
- (b) Number and nature of the violation(s);
- (c) Potential for immediate and serious threat(s) to EPD Waiver participants;
- (d) Potential for serious harm to Waiver participants;
- (e) Any history of prior violation(s) and/or sanction(s);
- (f) Actions or recommendations by the Department's Division of Program Integrity or Long Term Care Administration's EPD Waiver Monitoring Unit; and
- (f) Other relevant factors.

4253.4 DHCF may impose one (1) or more alternative sanctions against an EPD Waiver Provider, if the violation does not place the beneficiary's health or safety in immediate jeopardy, as set forth below:

- (a) Impose a corrective action plan (CAP);
- (b) Prohibit new admissions or place a cap on enrollment;
- (c) Place the provider on an enhanced monitoring plan;
- (d) Withhold payments; or
- (e) Temporarily suspend the provider from the EPD Waiver Program.

4253.5 DHCF shall publicize the imposition of an alternative sanction on its website.

4253.6 A CAP may include actions such as publicizing information during the EPD Waiver mandatory monthly meeting, and posting provider performance cards on DHCF's website.

4253.7 DHCF shall issue a written notice of provider termination where the agency determines that the sanctions listed under Subsection 4253.4 are not appropriate to address the incident(s) and/or complaint(s). DHCF shall reserve the right to terminate a Medicaid provider agreement without a sanction depending on the severity of the violations.

4253.8 If DHCF initiates an action to terminate a provider agreement, DHCF shall follow the procedures set forth in Chapter 13 of Title 29 DCMR governing termination of the Medicaid provider agreement.

- 4253.9 The DHCF may also take actions in lieu of or in addition to an alternative sanction when appropriate. These include the following:
- (a) Referral of the incident to another entity, including but not limited to the Medicaid Fraud Control Unit of the Office of the Inspector General for investigation; or
 - (b) Referral to Adult Protective Services (APS).
- 4253.10 If DHCF initiates an action to impose an alternative sanction, a written notice shall be issued to each EPD Provider notifying the provider of the imposition of an alternative sanction.
- 4253.11 The written notice shall inform the provider that DHCF intends to impose an alternative sanction.
- 4253.12 The notice shall also include the following:
- (a) The basis for the proposed action;
 - (b) The specific alternative sanction that DHCF intends to take;
 - (c) The provider's right to dispute the allegations and to submit evidence to support his or her position; and
 - (d) Specific reference to the particular sections of the statutes, rules, provider's manual, and/or provider agreements involved.
- 4253.13 The EPD Waiver provider may submit documentary evidence to DHCF's Long Term Care Administration, 441 4th St. NW, Ste. 1000, Washington D.C. 20001 to refute DHCF's argument for imposition of an alternative sanction within thirty (30) days of the date of the notice described in Subsections 4253.10 through 4253.12.
- 4253.14 DHCF may extend the thirty (30) day period prescribed in Subsection 4253.13 for good cause on a case-by-case basis.
- 4253.15 If DHCF decides to impose an alternative sanction against the EPD provider after the provider has issued a response under Subsection 4253.13, DHCF will send a written notice at least fifteen (15) days before the imposition of the alternative sanction. The notice shall include the following:
- (a) The reason for the decision;
 - (b) The effective date of the sanction; and

- (c) The provider's right to request a hearing by filing a notice of appeal with the District of Columbia Office of Administrative Hearings.

4253.16 If the provider files a notice of appeal within fifteen (15) days of the date of the notice of the alternative sanction under Subsection 4253.15, then the effective date of the proposed action shall be stayed until the D.C. Office of Administrative Hearings has rendered a final decision.

4253.17 The Director of DHCF shall consider modifying the alternative sanction upon occurrence of one of the following:

- (a) Circumstances have changed and resulted in changes to the programmatic requirement violation(s) in such a manner as to immediately jeopardize a beneficiary's health, safety, and welfare; or
- (b) The EPD Provider makes significant progress in achieving compliance with the programmatic requirements through good faith efforts.

4253.18 A provider shall be prohibited from submitting an application for participation in the EPD Waiver program for two (2) consecutive years from the date of receipt of the final notice of termination of a Medicaid Provider Agreement.

4253.19 A provider that has been terminated from the District's Medicaid EPD Waiver program shall be precluded from submitting any claims for payment, either personally or through claims submitted by any entity for any services provided under the EPD Waiver program, for dates of service on or after the effective date of the termination decision after the provider exhausts all appeal rights and an official decision of termination has been made.

4254 INCIDENTS AND COMPLAINTS

4254.1 Providers are required to report critical incidents that may threaten the beneficiary's health or welfare for review and follow-up by DHCF and/or other designated agencies. The critical incidents consist of the following categories:

- (a) Serious reportable incidents (SRI); and
- (b) Reportable incidents (RI).

4254.2 SRI are those incidents which due to their significance or severity to the beneficiary require immediate response, notification, internal review and investigation by the provider agency and DHCF.

4254.3 RI are significant events or situations that involve harm or risk to the beneficiary.

- 4254.4 SRI include, but are not limited to:
- (a) Unexpected death due to abuse, negligence, or accident;
 - (b) Abuse;
 - (c) Neglect or abandonment;
 - (d) Exploitation;
 - (e) Theft of consumer personal property;
 - (f) Serious physical injury;
 - (g) Inappropriate or unauthorized use of restraints;
 - (h) Suicide threats;
 - (i) Serious medication errors; and
 - (j) Suicide attempts or serious fire incidents that could have resulted in serious bodily harm or death.
- 4254.5 RI include, but are not limited to:
- (a) Medication errors;
 - (b) Hospitalization;
 - (c) Injuries;
 - (d) Emergency Room visits;
 - (e) Fire Occurrences involving property damage;
 - (f) Police Incidents;
 - (g) A temporary relocation due to emergencies; and
 - (h) Other events or situations that involve harm or risk of harm to beneficiaries.
- 4254.6 Each service provider shall develop internal policies and procedures regarding incident reporting and investigation that meets the following minimum criteria:

- (a) Notifying DHCF staff via the electronic management system within twenty four (24) hours or the next business day of an occurrence of an SRI or RI;
- (b) Documenting of the incident on an established incident report form in the electronic management system;
- (c) Completing of an internal investigation within five (5) business days of the SRI or RI's occurrence; and
- (d) Reporting for all SRIs involving death, neglect, abuse, and theft of consumer personal property occurring at a beneficiary's natural home to Adult Protective Services and DHCF.

4254.7 All providers shall establish an internal process for tracking information related to the occurrence of incidents and the outcome of investigations to predict and mitigate recurring incidents.

4254.8 Each provider shall maintain a copy of all incidents and keep them on file for a minimum period of ten (10) years, or until any DHCF, law enforcement, or Adult Protective Services' investigation of an incident has concluded, whichever is longer.

4254.9 A complaint is an expression of dissatisfaction or a formal charge of wrong-doing brought against an EPD Waiver Provider or individual providing services. Complaints include but are not limited to the following:

- (a) Denials or reductions of service;
- (b) Delays in the process resulting in a denial of eligibility;
- (c) Provider tardiness or poor quality of care;
- (d) Restriction of individual rights;
- (e) Lack of choice of service provider;
- (f) Obstructing the beneficiary's choice of preferred service provider when available; and
- (g) Violations of privacy and confidentiality policies as outlined under a providers' privacy plan as required in accordance with the requirements set forth in Section 4207.

- 4254.10 Each service provider shall develop internal policies and procedures regarding complaint documentation and a review process that meets the following minimum criteria:
- (a) An explanation of types of complaints that shall be addressed;
 - (b) The identification of a designated complaint officer who shall manage the complaint process;
 - (c) The timelines for addressing the complaints which shall specify the following:
 - (1) All complaints that pose an immediate risk to the beneficiary shall be addressed by the complaints officer within twenty four (24) hours or next business day of the receipt of the complaint;
 - (2) Complaints pertaining to Medicaid eligibility determination and denial or reduction of service shall be addressed by the complaints officer within five to seven (5 – 7) business days;
 - (3) All other complaints will be addressed by the complaints officer within ten (10) business days;
 - (d) Procedures verifying that all complaints are resolved within thirty (30) business days of the reporting of the complaint to the designated complaint officer; and
 - (e) The procedures that are used to resolve the complaints.

4254.11 All provider entities shall establish an internal process for tracking and trending information related to the occurrence of complaints and the outcome of investigations.

4254.12 Each provider shall maintain a copy of all complaints on file for a minimum period of ten (10) years.

4254.13 DHCF shall issue a transmittal notifying providers to log complaints into the EPD Waiver Complaint Database upon its operation.

4255 AUDITS AND MONITORING/OVERSIGHT REVIEWS

4255.1 The DHCF's Division of Program Integrity shall perform ongoing audits to ensure that the provider's services for which Medicaid payments are made are consistent with programmatic duties, documentation, and reimbursement requirements as required under this chapter.

- 4255.2 The audit process shall be routinely conducted by DHCF to determine, by statistically valid scientific sampling, the appropriateness of services rendered to EPD Waiver program beneficiaries and billed to Medicaid.
- 4255.3 Each EPD Waiver provider shall allow access, during an on-site audit or review (announced or unannounced) by DHCF, other District of Columbia government officials, and representatives of the United States Department of Health and Human Services, to relevant records and program documentation.
- 4255.4 The failure of a provider to timely release or to grant access to program documents and records to the DHCF auditors, after reasonable notice by DHCF to the provider to produce the same, shall constitute grounds to terminate the Medicaid Provider Agreement.
- 4255.5 If DHCF denies a claim during an audit, DHCF shall recoup, by the most expeditious means available, those monies erroneously paid to the provider for denied claims, following notice and the period of Administrative Review set forth in Subsection 4255.7 of this chapter.
- 4255.6 The recoupment amounts for denied claims during audits shall be determined by the following formula:
- (a) The number of denied paid claims resulting from the audited sample shall be divided by the total number of paid claims from the audited sample; and
 - (b) The amount derived from (a) as referenced in Subsection 4255.6 shall be multiplied by the total dollars paid by DHCF to the provider during the audit period to determine the amount to be recouped.
- 4255.7 In accordance with the formula referenced in Subsection 4255.6, DHCF would recoup ten percent (10%) of the amount reimbursed by Medicaid during the audit period, or one thousand dollars (\$1000), if a provider received Medicaid reimbursement of ten thousand dollars (\$10,000) during the audit period, and during a review of the claims from the audited sample, it was determined that ten (10) claims out of one hundred (100) claims are denied.
- 4255.8 DHCF shall issue a Notice of Proposed Recovery for Medicaid Overpayment (NPRMO) which sets forth the reasons for the recoupment, including the specific reference to the particular sections of the statute, rules, or Provider agreement, the amount to be recouped, and the procedures for requesting an administrative review.
- 4255.9 The timelines for responding to the NPRMO and the provider's appeal rights are governed by Section 4256.

- 4255.10 The DHCF's Long Term Care Administration's EPD Waiver Oversight and Monitoring team shall conduct two (2) types of reviews as follows:
- (a) Annual oversight and monitoring reviews to ensure compliance with established federal and District regulations and applicable laws governing the operations and administration of the EPD Waiver Program; and
 - (b) Quarterly compliance reviews to ensure adherence with the EPD Waiver Program's performance measures.
- 4255.11 Each waiver services provider shall allow the EPD Waiver oversight and monitoring team access, during an on-site oversight/monitoring process (announced or unannounced).
- 4255.12 As part of the oversight and monitoring process, providers shall grant access to any of the following documents, which may include, but shall not be limited to the following:
- (a) Person-Centered Service Plan (PCSP) and Plan of Care/ service delivery plan;
 - (b) Employee records;
 - (c) A signed, and current copy of the Medicaid Provider Agreement;
 - (d) Licensure information;
 - (e) Policies and Procedures;
 - (f) Incident Reports and Investigation Reports; and
 - (g) Complaint related reports.
- 4255.13 DHCF's EPD Waiver Oversight and Monitoring Team shall issue a Statement of Findings and Opportunities for Improvement Plan ("improvement plan") within fifteen (15) calendar days of the annual oversight and monitoring exit meeting. Providers shall subsequently submit a plan of correction within fifteen (15) calendar days of the date of receipt of DHCF's improvement plan.
- 4255.14 DHCF's EPD Waiver Oversight and Monitoring team shall generate a performance measures discovery/remediation report ("remediation report") within five (5) business days of completion of the quarterly performance measures-related review. Providers shall subsequently submit a performance measures-related remediation plan ("remediation plan") within ten (10) business days of receipt of the report.

4255.15 The failure to provide an acceptable plan of correction, remediation plan or adherence to the improvement plan or remediation report may result in alternative sanctions such as a prohibition of new admissions and referral to the DHCF's Division of Program Integrity for further investigation.

4256 APPEAL RIGHTS FOR PROVIDERS AGAINST WHOM A RECOUPMENT IS MADE

4256.1 The provider shall have thirty (30) calendar days from the date of the NPRMO to respond in writing. The response shall be submitted to the DHCF's Director of the Division of Program Integrity.

4256.2 The provider's written response to the NPRMO shall include a specific description of the item(s) to be reviewed, the reason for the request for review, the relief requested, and documentary evidence in support of the relief requested.

4256.3 The DHCF's Division of Program Integrity shall mail a written determination no later than one hundred and twenty (120) calendar days from the date of receipt of the provider's response to the NPRMO.

4256.4 Payments otherwise authorized to be made to a provider under the District of Columbia Medicaid Program may be suspended or recouped, in whole or in part, by DHCF to recover or aid in the recovery of overpayments that have been made to the provider.

4256.5 The DHCF shall notify the provider of its intention to recoup payments, in whole or in part, and the reasons for the recoupment in a Final Notice of Medicaid Overpayment Recovery (FNPRMO). The Final Notice to providers shall include the following:

- (a) The factual basis for the determination of overpayments including the dollar value of the overpayment;
- (b) How the overpayment was computed;
- (c) Specific reference to the section of the statute, rule, provider's manual, or provider agreement that is the basis for the recoupment; and
- (d) Information about the government entity who checks shall be made payable to and the corresponding mailing address.

4256.6 Any provider that disagrees with the reason for a recoupment or the amount of the recoupment shall have fifteen (15) calendar days from the date of the FNPRMO to request a hearing by filing an appeal with the District of Columbia Office of Administrative Hearings (OAH).

4256.7 Filing an appeal with the OAH shall not stay any action to recover any overpayment to the provider. The provider shall be liable to the Medicaid Program for any overpayments as set forth in the FNPRMO.

4256.8 The provider shall file a written Notice of Appeal with the Office of Administrative Hearings, 441 4th Street, NW, Suite 450 North, Washington, D.C. 20001. The provider shall also send a copy of that Notice of Appeal to the DHCF Office of General Counsel.

4299 DEFINITIONS: WAIVER SERVICES

4299.1 When used in this chapter, the following terms shall have the meaning ascribed:

Abuse - Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the District Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

Activities of Daily Living (ADLs) - The ability to bathe, transfer, dress, eat and feed self, engage in toileting, and maintain bowel and bladder control (continence).

Advanced Practice Registered Nurse - A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*).

Admissions Hold - A process by which a provider is prohibited from admitting new Waiver beneficiaries.

Assisted Living Residence - An entity that shall have the same meaning as set forth in D.C. Official Code § 44-102.01(4).

Case Management Agency - An agency under contract with the Department of Health Care Finance (DHCF) to provide case management services to waiver beneficiaries.

Case Manager - A staff person from the case management agency who performs case management services.

Cueing - Using verbal prompts in the form of instructions or reminders to assist beneficiaries with activities of daily living and instrumental activities of daily living.

Chore Aide – A person who performs tasks intended to place the home environment in a clean, sanitary, and safe condition, and to prepare the home environment for ongoing routine home care services.

Communicable Disease – Any disease defined in D.C. Official Code § 7-132 and 22-B DCMR § 299.

Environmental Accessibility Adaptation (EAA) - Physical adaptations to the home that are necessary to ensure the health, welfare, and safety of the individual, or that enable the individual to function with greater independence in the home, and without which, the individual would require institutionalization.

Fraud - An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person, including any act that constitutes fraud under federal or District law.

Family - Any person related to the beneficiary by blood, marriage, or adoption.

Home Care Agency – An entity licensed pursuant to 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 *et seq.*)

Limited English Proficient Individuals - Individuals who do not speak English as their primary language, and individuals who have a limited ability to read, write, speak, or understand English.

Medicaid - A federal-state program established by Title XIX of the Social Security Act, which provides payment of medical expenses for eligible persons who meet income and/or other criteria.

Natural Home - A home owned or leased by the beneficiary, the beneficiary's family member or another private individual; the lease/deed must be held by the beneficiary, the beneficiary's family member, or another private individual.

Participant/Representative-Employer - The *Services My Way* participant or the participant's authorized representative, as applicable, who performs employer-related duties including recruiting, hiring, supervising and discharging participant-directed workers.

Person-Centered Service Plan (PCSP) – Individualized service plan developed by the case manager that identifies the supports and services to be provided to the person enrolled in the Waiver and the evaluation of the

person's progress on an on-going basis to assure that the person's needs and desired outcomes are being met.

Personal Care Aide - A person who has successfully completed the relevant jurisdiction's (the person's home state or District of Columbia) established training program and meets the competency evaluation requirements. Tasks include assistance with activities of daily living and instrumental activities of daily living.

Personal Care Aide services - Services involving assistance with one or more activities of daily living that is rendered by a qualified personal care aide under the supervision of a registered nurse.

Physical Disability - A functionally determinable impairment that substantially limits an individual's ability to perform manual tasks, to engage in an occupation, to live independently, to walk, to see, or hear.

Physician - A person who is licensed or authorized to practice medicine pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*).

Plan of Care - A plan prepared by the EPD Waiver service provider that outlines the service delivery plans for the services being delivered by that provider. This is also referred to as a service delivery plan.

Provider - Any entity that meets the waiver service requirements, has signed an agreement with DHCF to provide waiver services, and is enrolled by DHCF to provide services to waiver beneficiaries.

Purified Protein Derivative (PPD) - A tuberculin solution that is used in skin tests for tuberculosis.

Registered Nurse - An individual who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*), as amended, or licensed as a registered nurse in the jurisdiction where services are provided.

Respite Service - Services that include the provision of assistance with activities of daily living and instrumental activities of daily living for waiver beneficiaries in their home or temporary place of residence in the temporary absence of the primary caregiver. Respite services may also be provided in a Medicaid certified community setting or a group home.

Theft - Wrongfully obtaining or using the property of another with intent to deprive the other of a right to the property or a benefit of the property or to appropriate the property to an individual's own use or to the use of a third person.

Vendor - A corporate entity providing individual-directed goods or services.

Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS)-Support Broker Entity - An entity operating in accordance with 26 USC § 3504 and Rev. Proc. 70-6, as modified by REG-137036 and Rev. Proc. 2013-39, which provides financial management services and information and assistance services to *Services My Way* participants and their representatives, as appropriate.

Waiver- The home and community-based Waiver for the Elderly and Persons with Disabilities (EPD) as approved by the Council of the District of Columbia (Council) and CMS, as may be further amended and approved by the Council and CMS.

Waiver Period - Each five (5) year term for which the Waiver is approved by CMS, beginning with the initial effective date of the Waiver.

Wrongfully Obtain or Use - Taking or exercising control over property; making an unauthorized use, disposition, or transfer of an interest in or possession of property; or obtaining property by trick, false pretense, false token, tampering, or deception. The term "wrongfully obtain or use" includes conduct previously known in the District as larceny, larceny by trick, larceny by trust, embezzlement, and false pretenses.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, J.D. Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2017-092
April 6, 2017

SUBJECT: Designation of Special Event Areas for Emancipation Day Celebration

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as the Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 792, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2016 Repl.), and pursuant to 19 DCMR § 1301.8, it is hereby **ORDERED** that:

1. On Saturday, April 8, 2017, between the hours of 12:00 p.m. and 4:00 p.m., the following area is hereby designated as a special event area to be used as a parade route:
 - a. The area on Pennsylvania Avenue, NW, between 9th and 14th Streets, NW.
2. On Saturday, April 8, 2017, between the hours of 6:00 a.m. and 4:00 p.m., the following areas are hereby designated as a special event area to be used as a parade route staging area:
 - a. The area of 10th Street, NW, between Pennsylvania Avenue and E Street, NW; and
3. On Saturday, April 8, 2017, between the hours of 4:00 a.m. and 12 o' clock midnight, the following areas are hereby designated as a special event area to be used as a fairground and staging areas:
 - a. The area on Pennsylvania Avenue (South), NW, between 12th and 14th Streets, including 13th Street, NW;
 - b. E Street, NW, between 13th and 14th Streets, NW;
 - c. The North and South curb lanes of E Street, NW, between 12th and 13th Streets, NW;
 - d. The East and West curb lanes of 13th Street, NW, between E and F Streets, NW;
 - e. 13th Street, NW, between E Street and Pennsylvania Avenue, NW;
 - f. 12th Street NW, between E Street and Pennsylvania Avenue, NW;

- g. The East curb lane of 14th Street, NW, between E Street and Pennsylvania Avenue, NW;
 - h. The North curb lane of Pennsylvania Avenue, NW, between 14th and 15th Streets, NW; and
 - i. The East curb lane of 14th Street, NW, between E and F Streets, NW.
4. The Government of The District of Columbia – Executive Office of the Mayor is authorized to operate said parade route and fairground, and to conduct necessary and appropriate activities in aid of the parade route and the fairground for the 155th Anniversary of President Lincoln’s signing of the District of Columbia Compensated Emancipation Act.
 5. This Order is an authorization for the closure of the designated streets only, and the operating entities shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event on the designated streets. All building, health, life safety, and use of public space requirements shall remain applicable to the Special Event Areas designated by this Order.
 6. **EFFECTIVE DATE:** This Order shall become effective immediately.



 MURIEL BOWSER
 MAYOR

ATTEST: 

 LAUREN C. VAUGHAN
 SECRETARY OF THE DISTRICT OF COLUMBIA

BRIDGES PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A INTO
SOLE SOURCE CONTRACT****George Washington University Intern Program**

Bridges Public Charter School intends to enter into a sole source contract with George Washington University for teaching interns to be placed within the school. The teaching interns are serving as effective classrooms teacher intern specifically equipped to promote educational achievement for special education students.

- Bridges Public Charter School constitutes the sole source for George Washington University is intended for collaborative teaching services will lead to student achievement as well as enhanced research study for the intern and university.

For further information regarding this notice contact bids@bridgespcs.org no later than **4:00 pm Monday, April 24, 2017**

BRIDGES PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER INTO
A SOLE SOURCE CONTRACT****The Literacy Lab**

Bridges Public Charter School intends to enter into a sole source contract with The Literacy Lab for tutors to be placed within the school. These tutors are serving as effective reading assistants specifically equipped to promote educational achievement.

- Bridges Public Charter School establishes the sole source with The Literacy Lab intended for the low cost and high quality initiatives in reading as a fundamental that will lead to student achievement.

For further information regarding this notice contact bids@bridgespcs.org no later than **4:00 pm Monday, April 24, 2017**

CENTER CITY PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Pest Control Services**

Center City Public Charter Schools is soliciting proposals from qualified vendors for the following:

Pest Control Services: Center City PCS would like to engage a pest control contractor to service six public charter schools located in the District of Columbia. The goal is to enter into a contract with a professional and dynamic company that is able to meet all requirements identified.

To obtain copies of full RFP's, please visit our website: www.centercitypcs.org. The full RFP's contain guidelines for submission, applicable qualifications and deadlines.

Contact person:

Natasha Harrison
nharrison@centercitypcs.org

D.C. BILINGUAL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****IT Support Services**

D.C. Bilingual Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following services for the FY16 and FY17 school years:

- IT Support Services

The school must receive a PDF version of your proposal no later than 4:00 pm, Monday, April 24, 2017. Proposals should be emailed to: bids@dcbilingual.org

Please include the bid category for which you are submitting as the subject line in your e-mail (e.g. IT Support Services). Respondents should specify in their proposal whether the services they are proposing are only for a single year or will include a renewal option.

D.C. BILINGUAL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Technology and Computer Equipment Purchasing Services**

D.C. Bilingual Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following services for the FY16 school year:

- Technology and Computer Equipment

The school must receive a PDF version of your proposal no later than 4:00 pm, Monday, April 24, 2017. Proposals should be emailed to: bids@dcbilingual.org

Please include the bid category for which you are submitting as the subject line in your e-mail (e.g. IT Support Services). Respondents should specify in their proposal whether the services they are proposing are only for a single year or will include a renewal option.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF FUNDING AVAILABILITY****FY 2017 Charter Schools Program Dissemination Grant
(ESEA Title V, Part B)****Request for Application Release Date: May 1, 2017**

The Office of the State Superintendent of Education (OSSE) will issue a Request for Applications (RFA) for the FY 2017 Charter Schools Program (CSP) Dissemination Grant. The dissemination grant is funded through the federal FY 2015 CSP State Educational Agencies (SEA) Grant pursuant to sections 5201-5211 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, Public Law 107-110.

Approximately \$913,000 in dissemination grant funds will be awarded to eligible public charter school local education agencies (LEAs) to assist other schools in adapting the public charter school's program (or certain aspects of the public charter school's program), or to disseminate information about best practices at the public charter school through such activities as:

- Assisting other individuals with planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;
- Developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating within the partnership;
- Developing curriculum materials, assessments, and other materials that promote increased student achievement, and are based on successful practices within the assisting charter school; and
- Conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

To be eligible for this grant, a public charter LEA must:

- Have been in operation in the District of Columbia for at least three (3) consecutive years prior to this solicitation (open and serving students since at least the 2013-14 school year); and must
- Have demonstrated overall success, including:
 - (1) Substantial progress in improving student academic achievement;
 - (2) High levels of parent satisfaction; and
 - (3) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

Additional eligibility information for charter LEAs who have previously been awarded a CSP dissemination subgrant:

- Charter LEAs that have previously been awarded one CSP dissemination subgrant from OSSE are eligible to apply for a second CSP dissemination subgrant under the conditions described below.
- Charter LEAs that have previously received two CSP dissemination subgrants from OSSE are not eligible to apply for a third CSP dissemination subgrant.

Any charter LEA who has previously received one CSP-funded dissemination grant may apply for a second dissemination subgrant, subject to the following conditions:

- No more than one dissemination project may be carried out by a subgrantee at one time;
- Subgrantees will not use funds to carry out the same project or activities from a previous dissemination subgrant;
- Dissemination subgrant applicants must have satisfactorily completed all activities under their previous dissemination subgrant, including full draw-down funds and all OSSE reporting requirements; and
- The application must meet all other requirements listed above.

Determinations regarding the number of competitive grant awards will be based on the quality and number of applications received and available funding. Successful applicants may be awarded amounts less than requested. Priority may be given to projects within the following areas of focus:

- a. Improving educational outcomes for disadvantaged students by raising achievement and attainment for specific subgroups (including statewide assessments, graduation rates, and post-secondary enrollment rates) and reducing achievement gaps between subgroups;
- b. Disseminating best and promising practices related to student discipline and school climate or effectively incorporating student body diversity with respect to improving academic achievement for educationally disadvantaged students; and
- c. Disseminating successful special education practices to partner LEAs who were previously dependent charters for special education purposes and are becoming their own LEAs during the project period.

A review panel or panels will be convened to review, score, and rank each application. The review panel will be composed of external, neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE will make all final award decisions.

The grant award period will be two years from the date of the award, and LEAs must commit to obligate all grant funds awarded under this competition within the grant award period.

The RFA will be available on OSSE's website at www.osse.dc.gov. All applications will be submitted through the Enterprise Grants Management System (EGMS) at grants.osse.dc.gov. Please note that all interested applicants must submit a letter of intent to apply by Friday, May 12, 2017 and must participate in a Pre-Application Webinar.

To receive more information, please contact Brianna Becker at Brianna.Becker@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FILING OF AN APPLICATION
TO PERFORM VOLUNTARY CLEANUP309-311 Pennsylvania Avenue, SE
Case No. VCP2017-049

Pursuant to § 636.01(a) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 et seq., as amended April 8, 2011, DC Law 18-369 (herein referred to as the “Act”)), the Voluntary Cleanup Program in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch, is informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The applicant for real property located at 309-311 Pennsylvania Ave., SE Washington, DC 20003, is the Juanita M. Vidi 2005 Irrevocable Trust, 7727 Belle Point Drive, Greenbelt, Maryland 20770. The application identifies the presence of dry cleaning solvent in sub-slab soil gas. The applicant intends to redevelop the subject property into a restaurant.

Pursuant to § 636.01(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-6B) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program
Department of Energy and Environment (DOEE)
1200 1st Street, N.E., 5th Floor
Washington, DC 20002

Interested parties may also request a copy of the application by contacting the Voluntary Cleanup Program at the above address or by calling (202) 535-2289. An electronic copy of the application may be viewed at <http://doee.dc.gov/service/vcp-cleanup-sites>.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty-one (21) days from the date of this publication. DOEE is required to consider all relevant public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Please refer to Case No. VCP2017-049 in any correspondence related to this application.

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF FUNDING AVAILABILITY****Lead Poisoning Prevention Outreach and Collaboration**

The Department of Energy and Environment (the Department) seeks eligible entities to participate in a planning process to launch a prevention-focused collaborative effort to enhance community capacity to address lead and other environmental health hazards in the home, and to provide information to families through outreach events. This project is funded by the Center for Disease Control and Prevention Childhood Lead Poisoning Prevention Program CFDA # 93.753 in the amount of \$68,000. Two awards of approximately \$34,000 each will be granted. This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 4/14/2017, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department's website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to 2017LeadOutreachRFA.grants@dc.gov with "Request copy of RFA 2017-1719-LHHD-" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Lisa Gilmore at (202) 535-2624 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Lisa Gilmore RE:2017-1719-LHHD-" on the outside of the envelope.

An informational meeting at the above address and conference call will be held on April 26, 2017 at 2:00pm. The call number is 1-877-680-0165 and conference code is 5498641

The deadline for application submissions is 5/15/2017, at 4:30 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2017LeadOutreachRFA.grants@dc.gov.

Eligibility: The institutions below may apply for these grants:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: 2017LeadOutreachRFA.grants@dc.gov.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF FOR-HIRE VEHICLES**

**NOTICE OF FUNDING AVAILABILITY (AMENDMENT)
GRANTS FOR FOR-HIRE VEHICLE INNOVATIONS**

The Government of the District of Columbia, Department of For-Hire Vehicles, is soliciting applications from for-hire vehicle companies, owners and operators with current DFHV operating authority to participate in innovative pilot projects and partnership programs aimed at improving transportation equity, expanding economic opportunities, and fostering innovation. The amended Request for Applications (“RFA”) #FHVINNO-2017-05-002 release date will be April 17, 2017 and applications will be accepted immediately upon release. The full text of the RFA will be available online at DFHV’s website. It will also be available for pickup. A person may obtain a copy of, or seek additional information about, the RFA by any of the following means:

Download by visiting the DFHV website;

Email a request to karl.muhammad@dc.gov with “Request copy of RFA #FHVINNO-2017-05-002” in the subject line.

Call Karl Muhammad at 202-645-4435.

In person by making an appointment to pick up a copy from the DFHV at 2235 Shannon Place, SE, Suite 2001, Washington, DC 20020 (call Karl Muhammad at (202) 645-4435 and mention this RFA by name); or

Write Department of For-Hire Vehicles at 2235 Shannon Place, SE Washington, DC 20020, Attn: “Request copy of RFA #FHVINNO-2017-05-002” on the outside of the letter.

There are three rolling deadlines for application submissions. The next deadline is June 12, 2017 at 3:00 p.m. and every 90 days thereafter (September 11, 2017 and December 10, 2017). Four hard copies must be submitted to the above address and a complete electronic copy in .pdf format must be submitted.

Eligibility: Taxicab companies and owners with current operating authority from DFHV may participate in the innovation program and may apply for this opportunity. Other public vehicle for-hire owners and operators and private vehicle for hire companies and operators may apply for this opportunity but an award is subject to statutory changes in the law.

Period of Awards: The FHV Innovation Program performance period will begin on April 1, 2017 and end on March 30 2019.

Available Funding: One or more awards will be made, and award amounts will range from a minimum of \$2,500 up to a maximum of \$500,000 per award. There may be more than one grant awarded. The amount is contingent on availability of funding, strength of the proposal, viability of proposed innovation project, and approval by the appropriate partnering agencies.

FRIENDSHIP PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR PROPOSALS

Friendship Public Charter School is soliciting proposals from qualified vendors for:

- Desktop/Laptop/Network Computers and Supporting Equipment
- Recruiting Services for Academic and Operational Leadership Roles
- Construction Management Services
- Modular Classroom Purchase and Relocation Services

The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>. Proposals are due no later than 4:00 P.M., EST, Tuesday, May 3, 2017. No proposal will be accepted after the deadline. Questions can be addressed to: ProcurementInquiry@friendshipschools.org

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**NOTICE OF SOLICITATION FOR OFFERS**

(Washington, DC) - On Thursday, May 25, 2017, the DC Department of Housing and Community Development (DHCD) will release a Solicitation for Offers (SFO) for the development of three adjacent lots in Congress Heights.

Through the SFO, DHCD is seeking public offers to build projects that promote the provision of affordable housing, a commitment to long-term affordability, the revitalization of local neighborhoods and elimination of blight in the District on the following sites:

SSL	Property Address	Property Type	Ward	Zoning	Historic District
5889 0815	1444 Alabama Ave SE	Vacant Lot	8	R-5-A	NO
5889 0053	1452 Alabama Ave SE	Vacant Lot	8	R-5-A	NO
5889 0054	1454 Alabama Ave SE	Vacant Lot	8	R-5-A	NO

The Solicitation for Offer application materials will be available by Thursday, May 25, 2017 on the DHCD website, www.dhcd.dc.gov.

A Pre-Bid meeting will be held at 10:00 a.m., Tuesday June 27, 2017 at DHCD's Housing Resource Center located at 1800 Martin Luther King, Jr. Avenue, SE, Washington, DC 20020. The deadline for submitting proposals is 4:00 p.m., Tuesday September 12, 2017. Respondents are asked to plan accordingly.

For additional updates, information and questions please go to our website <http://dhcd.dc.gov/service/property-acquisition-and-disposition> or contact padd.sfo@dc.gov.

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF SOLICITATION FOR OFFERS

(Washington, DC) - On May 2, 2017, the DC Department of Housing and Community Development (DHCD) will release a Solicitation for Offers (SFO) for the development of four District-owned properties in Anacostia.

Through the SFO, DHCD is seeking public offers to build (re)development projects that promote the provision of family-style affordable housing, a commitment to long-term affordability, the revitalization of local neighborhoods and elimination of blight in the District on the following sites:

WARD	SSL	Address	Vacancy	Zoning	Historic District
8	5562 0020	1414 22 nd Street, SE	LOT	RA-2	No
8	5778 0834	1615 V Street, SE	LOT	R-3	No
8	5778 0164	1637 V Street, SE	LOT	RA-2	No
8	5755 0004	2206 16 th Street, SE	BLDG	R-3	No

The Solicitation for Offer application materials will be available by May 2, 2017 on the DHCD website, www.dhcd.dc.gov.

A Pre-Bid meeting will be held at 10:00 a.m., Tuesday, June 6, 2017 at DHCD's Housing Resource Center located at 1800 Martin Luther King, Jr. Avenue, SE, Washington, DC 20020. The deadline for submitting proposals is 4:00 p.m., Tuesday, August 1, 2017. Respondents are asked to plan accordingly.

For additional updates, information and questions please go to our website <http://dhcd.dc.gov/service/property-acquisition-and-disposition> or contact padd.sfo@dc.gov.

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF SOLICITATION FOR OFFERS

(Washington, DC) - On Tuesday, May 2, 2017, the DC Department of Housing and Community Development (DHCD) will release a Solicitation for Offers (SFO) for the development of a large, residential lot in Anacostia.

Through the SFO, DHCD is seeking public offers to build projects that promote the provision of affordable housing, a commitment to long-term affordability, the revitalization of local neighborhoods and elimination of blight in the District on the following site:

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood
5799 0976	2352, 2356, 2360 High Street SE	Vacant Lot	8	R-3	NO	Anacostia

The Solicitation for Offer application materials will be available by May 2, 2017 on the DHCD website, www.dhcd.dc.gov.

A Pre-Bid meeting will be held at 12:00 p.m., Thursday June 1, 2017 at DHCD's Housing Resource Center located at 1800 Martin Luther King, Jr. Avenue, SE, Washington, DC 20020. The deadline for submitting proposals is 4:00 p.m., Tuesday August 2, 2017. Respondents are asked to plan accordingly.

For additional updates, information and questions please go to our website <http://dhcd.dc.gov/service/property-acquisition-and-disposition> or contact padd.sfo@dc.gov.

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING REGARDING
SURPLUS RESOLUTION PURSUANT TO D.C. OFFICIAL CODE §10-801**

The District will conduct a public meeting to receive public comments on the proposed surplus of District property. The date, time and location shall be as follows:

Property: 2 Patterson Street, NE
Lot 0245 in Square 0672

Date: Friday, April 28, 2017

Time: 4:30p.m.

Location: Northwest One Library
155 L Street, NW,
Washington, D.C. 20001

Contact: Lee Goldstein, lee.goldstein@dc.gov
(202) 729-2159

Notice of Public Meeting - Surplus Resolution Pursuant to D.C. Official Code §10-801

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

NOTICE OF SOLICITATION FOR A DEVELOPER

Eastern Branch Boys and Girls Club Site

The Government of the District of Columbia (the “District”), through the Office of the Deputy Mayor for Planning and Economic Development (“DMPED”), is requesting responses through a Request for Proposals (“RFP”) from qualified real estate development teams (“Developers”) for the disposition and development of the following site:

- **Eastern Branch Boys and Girls Club, Square 1088, Lot 0802;**
 - Solicitation format: RFP
 - Issuance Date: April 24, 2017

DMPED invites Developers to respond to this RFP for the redevelopment of the Eastern Branch Boys and Girls Club site in the Capitol Hill neighborhood of Southeast, Washington, D.C. There will be Pre-Response Conferences and Site Visits held at the Site and will be further described in the final RFP. More information will be available in the RFP publication.

For more information and project updates, please visit www.dmped.dc.gov.

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF OPEN PUBLIC MEETING

April 20, 2017
1:00 p.m.

900 7th Street, N.W.
2nd Floor, DCRB Boardroom
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, April 20, 2017, at 1:00 p.m. The meeting will be held at 900 7th Street, N.W., 2nd floor, DCRB Boardroom, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.Reaves@dc.gov.

AGENDA

- | | | |
|-------|------------------------------------|--------------------|
| I. | Call to Order and Roll Call | Chair Clark |
| II. | Approval of Board Meeting Minutes | Chair Clark |
| III. | Chair's Comments | Chair Clark |
| IV. | Acting Executive Director's Report | Ms. Morgan-Johnson |
| V. | Investment Committee Report | Mr. Warren |
| VI. | Operations Committee Report | Ms. Collins |
| VII. | Benefits Committee Report | Mr. Smith |
| VIII. | Legislative Committee Report | Mr. Blanchard |
| IX. | Audit Committee Report | Mr. Hankins |
| X. | Other Business | Chair Clark |
| XI. | Adjournment | |

D.C. SENTENCING COMMISSION**NOTICE OF MEETING CANCELLATION**

The D.C. Sentencing Commission hereby gives notice that the Commission meeting on Thursday, April 20, 2017 is canceled. Inquiries concerning the meeting may be addressed to Mia Hebb, Staff Assistant, at (202) 727-8822 or Mia.Hebb@dc.gov.

D.C. SENTENCING COMMISSION**NOTICE OF RESCHEDULED MEETING**

The D.C. Sentencing Commission hereby gives notice that the Commission meeting on April 18, 2017 has been rescheduled to **Thursday, April 20, 2017**. Inquiries concerning the meeting may be addressed to Mia Hebb, Staff Assistant, at (202) 727-8822 or Mia.Hebb@dc.gov.

**DC DEPARTMENT OF TRANSPORTATION
POLICY, PLANNING & SUSTAINABILITY ADMINISTRATION**

**HIGHWAY SAFETY BEHAVIORAL GRANT PROGRAM
NOTICE OF FUNDING AVAILABILITY**

Fiscal Year 2018 Grant to Non-Profit Community-Based Organizations

The Policy, Planning & Sustainability Administration (PPSA), Highway Safety Division, within the District of Columbia (District) Department of Transportation (DDOT) is soliciting detailed innovative projects that address the following identified problem areas:

Impaired Driving;
Occupant Protection to include seat belts and child passenger safety;
Aggressive Driving; and,
Pedestrian/Bicycle Safety

Successful grant applications will provide solutions to identified problems, implement proven strategies, show a commitment on the part of the applicant to sustain and contribute to success, have measurable outcomes, and/or have the greatest demonstrable need or problem. The purpose of the Highway Safety (Behavioral) Grant Program is to reduce fatalities and injuries in the District of Columbia through the implementation of programs that will bring awareness to aggressive driving, impaired driving, seatbelt usage, pedestrian/bicycle, and motorists. Applicants problem statements must be data driven, have performance measures, goals and objectives.

DDOT intends to make several grant awards of up to one hundred thousand dollars (\$100,000) to fund eligible organizations. This of course is based on funding availability. The award will be for fiscal year 2018 which begins October 1, 2017 and expires September 30, 2018. Eligible organizations must be non-profit organizations. This is a reimbursable grant based on expenditures. No cash advances are allowed. Indirect costs are not fundable as well. The service and activities to be funded through these grants should have a direct impact on behavioral changes of residents of the District of Columbia and meet the requirements of the highway safety grant program.

The Request for Application (RAF) will be released on Monday April 18, 2017 and a copy of the grant application may be obtained from PPSA's Highway Safety Division's mail office located at 55 M Street, SE, 5th floor, Washington, DC 20003, or can be obtained by going to the safety office's website www.ddot-hso.com. Once there click on "*Grants Information*", then click on *2018 Grant Application & Guide*. For additional information please contact Carole A. Lewis by email at: carole.lewis@dc.gov.

The deadline for submission of all grant applications is Monday, May 15, 2017 at 3:00 pm

NOTICE OF NON-DISCRIMINATION

In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§2-1401.01 *et seq.* (Act), the District of Columbia does not discriminate on the basis of (actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Audit Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Thursday, April 27, 2017 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

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|----|---|------------------|
| 1. | Call to Order | Chairman |
| 2. | Summary of Internal Audit Activity -
Internal Audit Status | Internal Auditor |
| 3. | Executive Session | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Operations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will be holding a meeting on Thursday, April 20, 2017 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | | |
|-----|-------------------------------|---|
| 1. | Call to Order | Committee Chairperson |
| 2. | AWTP Status Updates | Assistant General Manager,
Plant Operations |
| | 1. BPAWTP Performance | |
| 3. | Status Updates | Chief Engineer |
| 4. | Project Status Updates | Director, Engineering &
Technical Services |
| 5. | Action Items | Chief Engineer |
| | - Joint Use | |
| | - Non-Joint Use | |
| 6. | Water Quality Monitoring | Assistant General Manager,
Consumer Services |
| 7. | Action Items | Assistant General Manager,
Consumer Services |
| 8. | Emerging Items/Other Business | |
| 9. | Executive Session | |
| 10. | Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, April 27, 2017 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|----------------------------------|------------------------------|
| 1. | Call to Order | Chairman |
| 2. | March 2017 Financial Report | Director of Finance & Budget |
| 3. | Agenda for May Committee Meeting | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

D.C. Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) D.C. Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, April 25, 2017 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dewater.com.

DRAFT AGENDA

- | | | |
|-----------|---------------------|-------------------------|
| 1. | Call to Order | Committee Chairman |
| 2. | Monthly Updates | Chief Financial Officer |
| 3. | Committee Work plan | Chief Financial Officer |
| 4. | Other Business | Chief Financial Officer |
| 5. | Adjournment | Chief Financial Officer |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19396 of Hatem Hatem, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF-use requirements of Subtitle U § 320.2, to construct a three-story rear addition to an existing three-unit apartment house in the RF-3 Zone at premises 417 4th Street S.E. (Square 793, Lot 828).

HEARING DATE: March 22, 2017²
DECISION DATE: March 22, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 (original) and 44 (revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on December 13, 2016, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 37.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 49.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 35.)

A neighbor within the same square submitted a letter of opposition. (Exhibit 38.) Jerome Conway, the adjacent neighbor to the south, at 419 4th Street S.E., provided testimony in opposition concerning density of the neighborhood and whether the Applicant's chimney would

¹ The Applicant amended the application (Exhibit 44) by removing requests from the original application for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 314.1, and for a variance from the RF-use requirements of Subtitle U § 320.2(d), based on updated plans (Exhibit 40). The caption has been revised accordingly.

² The case was postponed and rescheduled from the hearing dates of January 11, 2017 and March 8 2017, at the Applicant's request. (Exhibits 36 and 45.) The case was heard at the public hearing on March 22, 2017.

need to be raised. In response, the Applicant testified that he will go through with the back up plans, where there is a “cut out”, which cuts out ten feet around the perimeter of the chimney so that the height of the chimney would not have to be adjusted. (Exhibit 47.) In addition, the Applicant notes that the neighborhood is evolving and increasing in density, and his plans are in keeping with the characteristics of the neighborhood.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the RF-use requirements of Subtitle U § 320.2, to construct a three-story rear addition to an existing three-unit apartment house in the RF-3 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle U § 320.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 47.**

VOTE: **4-0-1** (Carlton E. Hart, Frederick L. Hill, Lesylleé M. White, and Robert E. Anthony J. Hood, to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 31, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED

BZA APPLICATION NO. 19396

PAGE NO. 2

STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19399 of Benjamin Gunden, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201, from the side yard setback requirements of Subtitle D § 307.5, to add a two-story rear addition to an existing one-family dwelling in the R-1-B Zone at premises 1335 Gallatin Street N.W. (Square 2805, Lot 18).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: March 22, 2017 (Expedited Review Calendar)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated October 20, 2016, from the Zoning Administrator, certifying the required relief. (Exhibit 6.)

Pursuant to 11 DCMR Subtitle Y § 401, this application was tentatively placed on the Board of Zoning Adjustment's ("Board") expedited review calendar for decision without hearing as a result of the applicant's waiver of its right to a hearing. (Exhibit 2.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 4C, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC did not submit a report for this application.

The Office of Planning ("OP") submitted a timely report, dated March 10, 2017, in support of the application. (Exhibit 28.) The District Department of Transportation ("DDOT") submitted a timely report, dated March 9, 2017, expressing no objection to the approval of the application. (Exhibit 27.)

No objections to expedited calendar consideration were made by any person or entity entitled to do by Subtitle Y §§ 401.7 and 401.8. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle D § 5201, from the side yard setback requirements of Subtitle D § 307.5, to add a two-story rear addition to an existing one-family dwelling in the

R-1-B Zone. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR, Subtitle X §§ 901.2, and Subtitle D §§ 5201 and 307.5, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR, Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8 – ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **4-0-1** (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Anthony J. Hood, to APPROVE; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 30, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

BZA APPLICATION NO. 19399

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PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19417 of A3 Development LLC, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF-use requirements of Subtitle U § 320.2, to convert an existing flat into a three-unit apartment house in the RF-1 Zone at premises 1219 Park Road N.W. (Square 2839, Lot 122).

HEARING DATES: February 15, 2017

DECISION DATE: March 22, 2017

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated October 17, 2017, from the Zoning Administrator, certifying the required relief. (Exhibit 3.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a timely report recommending approval of the application. The ANC’s report indicated that at a regularly scheduled, properly noticed public meeting on February 8, 2017, at which a quorum was present, the ANC voted 10-0-1 to support the application, based on the Applicant’s agreement to maintain the original mansard roof and dormer, retain the original stone retaining wall, rebuild or maintain the front porch in a traditional fashion similar to the porch at 1221 Park Road, and not paint the brick façade. Also, the ANC noted that the Applicant had agreed to use permeable surfaces in the rear of the property to address concerns with storm water runoff in the alley. (Exhibit 38.)

The Office of Planning (“OP”) submitted two timely reports. In its second, supplemental report submitted after the Applicant amended the application and revised the project, OP indicated that it was recommending approval of the application, as amended, after having reviewed the Applicant’s supplemental submission dated March 15, 2017. (Exhibit 46.) In its initial report dated February 3, 2017, (Exhibit 37), OP recommended denial of the variance relief under

¹ The Applicant revised its plans and amended its application by withdrawing its request in the original application for a variance from the height and number of stories requirements of Subtitle E § 303.1, and its request for the waiver to modify the front dormer. The Applicant continued to request a special exception for a waiver of the condition under Subtitle U § 320.2(e) that limits an addition to no more than 10 feet past the furthest rear wall of any principal residential building on an adjacent property. The Board acknowledged the amendment and requested the Office of Planning (“OP”) submit a supplemental report. In its supplemental report, OP recommended approval of the amended relief. (Ex. 46.) The caption has been revised accordingly.

Subtitle E § 303.1 to increase the building height and to allow a 4th story. In that report, OP recommended approval of special exception relief pursuant to Subtitle E § 5201.1 from the requirements of Subtitle U § 320.2, to allow the conversion of an existing flat to a three-unit apartment house. Specifically, OP stated that it supported the waiver to allow the modification to the front dormer, but not the waiver to allow the rear addition to extend more than 29 feet beyond the adjacent property to the west. Subsequently, the Applicant withdrew its request for the waiver to modify the front dormer based on the revised plans at Exhibit 45A. OP, based on its review of the Applicant's Supplemental Submission dated March 15, 2017 (Exhibit 45-45B), ultimately recommended approval of the waiver from the limit on the extension of the rear addition. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 34.)

Thirteen letters in support of the application from neighbors were submitted to the record. (Exhibits 35C and 43.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the RF-use requirements of Subtitle U § 320.2, to convert an existing flat into a three-unit apartment house in the RF-1 Zone. The only parties to the case were the Applicant and the ANC. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle U § 304.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 45A.**

VOTE: **4-0-1** (Frederick L. Hill, Anthony J. Hood, Lesylleé M. White², and Carlton E. Hart, to APPROVE; one Board seat vacant.)

² Board Member White indicated that she had reviewed the entire record of the case in order to participate in the deliberations.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 31, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

BZA APPLICATION NO. 19417

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19418 of 319 Varnum LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF-use requirements of Subtitle U § 320.2, to convert an existing one-family dwelling into a three-unit apartment house in the RF-1 Zone at premises located at 319 Varnum Street N.W. (Square 3310, Lot 47).

HEARING DATES: February 1, February 22, and March 22 2017¹
DECISION DATE: March 22, 2017

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 3 (original) and 38 (updated).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted two timely reports recommending approval of the application with conditions. The first ANC's report was submitted to the record on February 13, 2017 and indicated that at a regularly scheduled, properly noticed public meeting on February 8, 2017, at which a quorum was present, the ANC voted 7-2-0 to support the application, with five conditions. (Exhibit 40.) The second ANC report was submitted on March 13, 2017, and indicated that at a duly noticed public meeting on March 8, 2017, at which a quorum was present, the ANC voted 4-3-0 to support the Applicant's revised plans, with four conditions, all of which were in the previous report. At the hearing of March 22nd, the Applicant testified that it was in agreement with the ANC's conditions, all of which pertained to construction issues, and would abide by them during construction. The ANC's second report also stated that the revised plans would conform to Subtitle U § 320.2(e) by creating a rear addition of no more than 10 feet and to Subtitle U § 320.2(f) since the Applicant had come to an agreement with the adjoining neighbor to address an existing chimney or vent. (Exhibit 44.) The Single District Member ANC 4C10, who represents the area where the property is located, testified on behalf of the ANC. Both the ANC and the Applicant noted that the Applicant had agreed to abide by the ANC's

¹ The case was postponed from the public hearing of February 1, 2017 to that of February 22 2017, at the Applicant's request (Ex. 34), and then continued by the Board to March 22, 2017.

conditions as well as with an agreement with an adjoining neighbor regarding the chimney cut-out.

The Office of Planning (“OP”) submitted a timely report dated February 10, 2017, in which OP recommended approval of special exception relief under Subtitle U § 320.2 - Conversions, special exception required to convert a residential building to an apartment house in the RF-1 zone. However, OP indicated that it did not support the requested waiver of the condition under Subtitle U § 320.2(e), in which any addition was limited to a 10-foot maximum. Also, OP noted that although the Applicant did not request a waiver of Subtitle U § 320.2(h), Rooftop Architectural Element, OP believed such a waiver was necessary and that OP would not support approval of a waiver request for the proposed design. (Exhibit 39.) In its supplemental submission dated March 17, 2017, the Applicant submitted revised plans which reduced the proposed addition so that it would only extend 10 feet past the adjacent neighbors’ rear walls, so that a waiver from Subtitle U § 320.2(e) was no longer needed or requested. Further, the Applicant indicated that it “fully expects to be able to raise the height of the adjacent chimney, pursuant to an agreement with that neighbor which is not yet finalized. Therefore, the Applicant is herewith submitting revised plans which do *not* show a chimney cut-out in the area adjacent to the existing chimney. The Applicant requests that the Board approve the Application subject to the condition that the Applicant satisfy the chimney relief condition (under § 320.2(f)).” (Exhibit 45.) Based on the Applicant’s supplemental filings and revised plans, OP testified that the need for a chimney agreement to be a condition of the order was rectified or eliminated.

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 35.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the RF-use requirements of Subtitle U § 320.2, to convert an existing one-family dwelling into a three-unit apartment house in the RF-1 Zone. The only parties to the case were the Applicant and the ANC. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle U § 320.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and

conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 46.**

VOTE: **4-0-1** (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Anthony J. Hood, to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: April 4, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL

BZA APPLICATION NO. 19418

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APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19425 of William Gowin, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the roof top/upper floor addition requirements of Subtitle E § 206.1(a), to add a third floor with roof deck to an existing flat in the RF-1 Zone at premises 30 Quincy Place N.E. (Square 3521, Lot 57).

HEARING DATES: February 15, 2017 and March 22, 2017²
DECISION DATE: March 22, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 6 (original) and 36 (revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 5E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 17, 2017, at which a quorum was present, the ANC voted 8-0-2 to support the application. (Exhibit 37.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 43.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 34.)

The Eckington Civic Association provided a letter in support. (Exhibit 31.) Twenty-three letters of support for the application were submitted to the record. (Exhibits 30, 32, 40, 45-46, 53-55, and 58.)

¹ The Applicant amended the application (Exhibit 36) by removing a request from the original application for a special exception under the height requirements of Subtitle E § 206.1(a), based on the revised architectural plans and elevations. (See, Exhibit 35.) The caption has been amended accordingly.

² The public hearing of February 15, 2017 was continued to March 22, 2017.

Five letters in opposition to the application were submitted to the record (Exhibits 48-50, 52, and 56.) Rebecca Miller, Executive Director of the DC Preservation League and Sally Berk, a professional historical preservationist, provided testimony in opposition to the application at the February 15, 2017 hearing. (Exhibits 57 and 60.) They both expressed opposition to the grant of the application because of their concerns that the removal of the turret would be inconsistent with the adjacent row houses. The Applicant responded that the removal of the turret allowed for the necessary space, the design complies with historical buildings in the neighborhood, and that there is a strong amount of support from the surrounding neighbors. Betsy McDaniel also provided testimony in opposition to the application at the March 22, 2017 hearing³. Ms. McDaniel, a resident from several blocks away, testified as to her concern regarding the change in the architectural character of the neighborhood through the proposed plan. The Board considered the concerns of the persons in opposition and asked OP for its viewpoint of the revised plans. OP testified that it continued to support the application, as amended, “on balance” despite concerns about removal of the turret.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the roof top/upper floor addition requirements of Subtitle E § 206.1(a), to add a third floor with roof deck to an existing flat in the RF-1 Zone. The only parties to the case were the Applicant and the ANC. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle E § 206.1(a), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT AND 61.**

VOTE: **3-0-2** (Carlton E. Hart, Frederick L. Hill, and Anthony J. Hood, to APPROVE;
Lesylleé M. White, not participating; one Board seat vacant.)

³ The Board had already addressed testimony in support and opposition at the February 15, 2017 hearing. The Board allowed Ms. McDaniel to testify in regards to the new information given by the property owner.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 31, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

BZA APPLICATION NO. 19425

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19453 of Edward Hickey, III, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle F § 5201, from the lot occupancy requirements of Subtitle F § 304.1, and pursuant to Subtitle X, Chapter 10, for variances from the court requirements of Subtitle F § 202.1, and the FAR requirements of Subtitle F § 302.1, to add two units to an existing apartment building in the RA-2 Zone at premises 1457 Girard Street N.W. (Square 2668, Lot 37).

HEARING DATE: March 22, 2017

DECISION DATE: March 22, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 (original) and 71 (revised¹)). In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a report and resolution recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on February 8, 2017, at which a quorum was present, the ANC voted 11-0-0 to support the application. (Exhibit 39.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 68.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 69.)

Twenty-seven letters in support of the application were filed into the record. (Exhibits 17-19, 21, 37, 40-45, 50, and 52-66.)

One neighbor testified in opposition to the application on her own behalf and on behalf of

¹ The revised self-certification form did not amend the relief, but rather provided updates to the calculations related to the project. (Exhibit 71, Tab A.)

residents of a condominium nearby. Also, three letters in opposition were submitted to the record. (Exhibits 74, 75, and 76.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the court requirements of Subtitle F § 202.1, and the FAR requirements of Subtitle F § 302.1, to add two units to an existing apartment building in the RA-2 Zone. The only parties to the case were the Applicant and the ANC, which supports the application. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle F §§ 202.1 and 302.1, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception from the lot occupancy requirements under Subtitle F §§ 5201 and 304.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle F §§ 5201 and 304.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8 - Tab C,**

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AS REVISED BY EXHIBIT 71 - Tab B – (Revised) Plans – Cellar and First Levels (Sheet A1001).

VOTE: 4-0-1 (Carlton E. Hart, Anthony J. Hood, Frederick L. Hill, and Lesylleé M. White to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: April 4, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL

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AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-12A
Z.C. CASE NO. 13-12A
1333 M Street, SE, LLC
(Two-Year PUD Time Extension @ Square 1048-S,
Lots 1, 801, and 802, and RES 129 and RES 299)
February 27, 2017

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on February 27, 2017. At the meeting, the Commission approved a request from 1333 M Street, SE, LLC ("Applicant") for a time extension for Phase 1 of an approved planned unit development ("PUD") for property consisting of Lots 1, 801, and 802, and RES 129 and RES 299 in Square 1048-S ("Property"). The Commission considered the request pursuant to Title 11-Z, Chapter 7 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR").

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 13-12 ("Order"), the Commission approved: (1) a first-stage PUD approval for 2.9 acres that will be developed in four phases; (2) a related map amendment from the M Zone District to the C-3-C Zone District for the Property; and (3) consolidated approval for Phase 1 of the PUD. The Order required the Applicant to file an application for a building permit for Phase 1 of the PUD no later than April 24, 2017, with construction to begin no later than April 24, 2018.
2. On January 24, 2017, the Applicant filed a request for a two-year extension for Phase 1 of the PUD, such that a building permit application for Phase 1 of the PUD must be filed no later than April 24, 2019, with construction to begin no later than April 24, 2020. This was the first extension request made by the Applicant.
3. The Applicant submitted evidence regarding an inability to obtain sufficient project financing for the development, following the Applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the Applicant's reasonable control. As demonstrated in the materials submitted by the Applicant, including the sworn affidavits of Eric L. Seigel, Vice President of 1333 M Street, SE, LLC, and Ronald J. Cohen, principal at Cohen Siegel Investors, the Applicant engaged and met with a substantial number of potential investors, both domestic and international, none of whom have committed to financially backing Phase 1 of the PUD in its entirety or the entire four-phased project. Nonetheless, the Applicant remains undeterred and believes that as the submarket continues to mature and absorb and infrastructure projects take shape that will make the walking distance to the closest Metrorail Station entrance to be less than one half mile, the Applicant will secure the necessary financing.
4. On February 17, 2017, the Office of Planning ("OP") submitted a report recommending approval of the request.

5. The only other party to the original application was Advisory Neighborhood Commission ("ANC") 6B. On February 16, 2017, ANC 6B submitted a resolution in support of the request.
6. Because the Applicant demonstrated good cause with substantial evidence pursuant to Title 11-Z § 705.2(c) of the Zoning Regulations, the Commission finds that the request for the two-year time extension should be granted.

CONCLUSIONS OF LAW

1. Pursuant to 11-Z DCMR § 705.3, the Commission may extend the validity of a PUD for up to two years for good cause shown upon a request made before the expiration of the approval, provided:
 - a. The request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond;
 - b. There is no substantial change in any material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and
 - c. The applicant demonstrates with substantial evidence that there is good cause for such extension. (11-Z DCMR § 702.2.) Title 11-Z § 702.2(c) provides the following criteria for good cause shown:
 - i. An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;
 - ii. An inability to secure all required governmental agency approvals for a development by the expiration date of the order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
 - iii. The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

2. The Commission concludes that the Applicant complied with the notice requirements of Title 11-Z § 702.2(a) by serving all parties with a copy of the request and allowing them 30 days to respond.
3. The Commission concludes there has been no substantial change in any material facts that would undermine the Commission's justification for approving the original PUD.
4. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's recommendations. As noted, ANC 6B, through a resolution dated February 16th, indicated its support for the request and expressed no issues and concerns. Since the ANC did not express any issues or concerns, there was nothing to give "great weight" to. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086 (D.C. 2016).)
5. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission has carefully considered the OP's recommendation in support of the request and agrees that approval of the requested two-year time extension is appropriate.
6. The Commission finds that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by Title 11-Z § 702.2(c). Specifically, the Applicant engaged and met with a substantial number of potential investors, both domestic and international, none of whom have committed to financially backing Phase 1 of the PUD in its entirety or the entire four-phased project.
7. Title 11-Z § 705.7 provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in Title 11-Z § 702.2 of the Zoning Regulations.
8. The Commission concludes a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in Title 11-Z § 702.2 of the Zoning Regulations.
9. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the request for a two-year extension for Phase 1 of the PUD, such that a building permit application for Phase 1 of the PUD must be filed no later than April 24, 2019, with construction to begin no later than April 24, 2020.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

At its public meeting of February 27, 2017, upon the motion of Commissioner Turnbull, as seconded by Commissioner Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Peter A. Shapiro to approve by absentee ballot).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on April 14, 2017.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION
ORDER NO. 15-01A
Z.C. Case No. 15-01A
Level 2 Development
(Minor Modification to PUD @ Square 3587)
May 23, 2016**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on May 23, 2016. At the meeting, the Commission approved an application of Level 2 Development ("Applicant") for minor modifications to an approved planned unit development ("PUD") for property located at 320 Florida Avenue, N.E. (Square 3587, Lot 4) ("Property"). Because the modifications were deemed minor, a public hearing was not conducted. The Commission determined that this modification request was properly before it under the provisions of 11 DCMR §§ 2409.9 and 3030.

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 15-01, the Commission approved a PUD and a related Zoning Map amendment to rezone the Property from the C-M-1 Zone District to the C-3-C Zone District. The approved PUD includes approximately 227,089 square feet of gross floor area (a density of 8.0 floor area ratio ("FAR")), with approximately 217,243 square feet of gross floor area devoted to residential use and approximately 9,880 square feet of gross floor area devoted to retail use. The approved PUD includes 313 residential units (plus or minus 10%) and 143 off-street parking spaces located in a below-grade parking garage. The maximum approved building height for the PUD is 120 feet at its highest point.
2. By letter dated March 25, 2016 (Exhibit ["Ex."] 1), the Applicant requested modifications to the architectural drawings approved in Z.C. Order No. 15-01 to revise: (i) the penthouse design and use; (ii) the park design; (iii) the east and west building facades; and (iv) the on-site parking configuration and number of parking spaces. The Applicant submitted revised architectural drawings showing the proposed modifications at Exhibit 2B ("Original Minor Modification Plans").
3. Minor Modifications to the Penthouse Design and Use. Pursuant to 11 DCMR § 411.24, the Applicant requested approval for minor modifications to revise the design and use of the building's penthouse to incorporate habitable space and to provide a maximum penthouse height of 20 feet, as permitted by the recently adopted penthouse regulations (Z.C. Order No. 14-13). The revised penthouse design replaces the previously approved indoor amenity space with four residential units and relocates the building's mechanical equipment to a second penthouse level. The modified penthouse requires flexibility from: (i) 11 DCMR § 411.9 to provide multiple penthouse heights (12 feet for the residential use and 20 feet for both residential and mechanical uses); and (ii) 11 DCMR § 411.18 to provide a penthouse enclosing mechanical equipment that is not set back 1:1 from the building's court walls in certain locations.

4. The addition of penthouse habitable space increases the overall net residential area in the building by approximately 4,303 square feet. The result is an increase of approximately 345 net square feet required to be devoted to Inclusionary Zoning (“IZ”) units. Thus, the Applicant will provide one additional IZ unit on-site, which will be devoted to households earning up to 50% of the area median income (“AMI”).
5. The modified roof plan also includes new windows/louvers, a guardrail, trellis, and a modified landscape plan with reallocated green area ratio (“GAR”) components and a relocated green roof. The GAR for the PUD is unchanged as a result of the modifications and continues to comply with the requirements of Chapter 34 of the Zoning Regulations.
6. Minor Modifications to the Park Design. The Applicant proposed modifications to the design of the approved park located on District-owned land abutting the Property to the west (“Park”). The revised design incorporates improved accessibility options with wider stairs and fewer switch-backs for the accessible ramp. The revised design maintains the previously approved plaza and park space, community herb garden, ornamental plantings, and future pedestrian connection to Morse Street to the north, and now also includes new lawn space and seating areas on the Applicant's private property, which will be open to the public.
7. Minor Modifications to the East and West Building Façades. The Applicant proposed the following minor modifications to the building's west elevation: (i) a refined window and facade treatment on the upper floors to create better unit functionality at those levels; and (ii) a revised masonry wall at the base of the building that allows for an integrated pedestrian sequence from the Park to Union Market. The Applicant modified the building's east façade by relocating certain windows to better accommodate construction of a new building on the adjacent property.
8. Minor Modifications to the On-site Parking Configuration and Number. The Applicant proposed a shift in the building's north foundation wall by approximately 20 inches to the south (into the Property), which increases the building's compact parking space ratio from 63% to 86% and reduces the total number of on-site parking spaces from 143 to 139. Pursuant to Z.C. Order No. 15-01, the Commission granted flexibility from 11 DCMR § 2115.2 to provide a compact parking space ratio of 63%. (*See* Z.C. Order No. 15-01, Decision No. A(3)(d).) As part of this modification application, the Applicant requested additional flexibility to provide a compact parking space ratio of 86%, to which the Commission agreed. Pursuant to Z.C. Order No. 15-01, the Commission also granted flexibility to reduce the total number of on-site parking spaces approved for the Property, so long as the number was not reduced below the minimum number of parking spaces required by the Zoning Regulations (in this case, 90 spaces). (*See* Z.C. Order No. 15-01, Decision No. A(4)(c).) Thus, additional flexibility is not required to reduce the total number of on-site parking spaces to 139.

9. On April 18, 2016, the Applicant submitted a revised streetscape and second-level materials plan showing additional updates to the Original Minor Modification Plans. (Ex. 5A, 2B.)
10. The Office of Planning (“OP”) reviewed the request for minor modifications, and by report dated April 18, 2016, OP recommended approval of the minor modifications, provided that the Commission finds acceptable the resultant flexibility needed for penthouse walls of unequal heights (11 DCMR § 411.9) and an increase in the percentage of compact parking spaces (11 DCMR § 2115.2). (Ex. 6A.)
11. On April 25, 2016, the Commission held a public meeting wherein it indicated its willingness to approve as Consent Calendar items the Applicant’s request for revisions to the park design, east and west building façades and on-site parking. However, the Commission raised concerns about granting flexibility for the revised penthouse design.
12. On May 4, 2016, the Applicant submitted further revised architectural drawings in response to concerns raised by the Commission. (Ex. 9A.) The revised plans eliminated the previously proposed penthouse mezzanine level, reduced the overall size of the penthouse, and removed the penthouse outdoor terraces that adjoined the mezzanines. In its cover letter submitting the revised drawings, the Applicant formally requested relief from 11 DCMR § 411.9 to provide penthouse walls of unequal heights. (Ex. 8.)
13. On May 5, 2016, OP submitted a supplemental report that indicated its support for the requested relief from 11 DCMR § 411.9. The OP report also noted that the proposed rooftop guardrails along the north and east walls of the building did not meet the 1:1 setback requirement, and recommended that the Applicant further modify its plans to provide a compliant setback. (Ex. 10.)
14. On May 9, 2016, the Applicant submitted further revised architectural drawings (Ex. 11A) that provided a fully compliant setback for the rooftop guardrails.
15. At its public meeting on May 12, 2016, the Commission reviewed the Applicant’s revisions to the application and requested that the Applicant further revise its plans to comply with the 1:1 setback requirement in all locations for the penthouse and/or provide a rationale for setbacks that are required to have less than a 1:1 setback.
16. On May 19, 2016, the Applicant submitted another set of revised architectural drawings. (Ex. 12A.) The revised drawings indicated a compliant 1:1 setback for the entire first level of habitable space in the penthouse, but a non-compliant setback in four distinct locations on the second level of the penthouse in the center of the building between the court wall and: (i) the west elevator; (ii) the shaft; and (iii) two locations for the east elevator bank. Each of the mechanical components that require setback relief are pushed as far as back as possible from the edge of the court wall. The elevator cannot be pushed farther away from the court wall due to the stair tower located immediately to its south, which cannot be shifted without severely impacting the layout of all residential floors

below. The shaft and the elevator banks are also set back as far as possible and cannot be pushed away from the court walls without negatively affecting the layout of every residential floor below and the circulation in the below-grade parking garage. Moreover, the Commission previously approved the proposed height and setbacks for this mechanical equipment in Z.C. Case No. 15-01.

17. On May 19, 2016, OP submitted a third report indicating support for the Applicant's request for flexibility to provide penthouse walls of unequal heights and non-compliant penthouse setbacks in four locations to accommodate the elevator and shafts for the building. (Ex. 13.)
18. The Applicant served the minor modification request on Advisory Neighborhood Commissions ("ANC") 5D and 6C. Single Member District Commissioner Peta-Gay Lewis (5D01) submitted a letter to the record wherein she expressed support for the proposed modifications and commended the Applicant for improving the project. (Ex. 4.)
19. On May 23, 2016, at its regular monthly meeting, the Commission reviewed the application for a third time and granted approval of the minor modifications as a Consent Calendar matter.
20. The Commission finds that the requested modifications as depicted in Exhibit 12A are minor, and further finds that approval of the modifications is appropriate and not inconsistent with its approval of the original PUD.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission finds that the proposed modifications are consistent with the intent of the previously approved Z.C. Order No. 15-01 and are not inconsistent with the Comprehensive Plan. The Commission further finds that flexibility is appropriately granted from 11 DCMR §§ 2115.2, 411.9, and 411.18.

The Commission concludes that approving the modifications is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 or 3030. Moreover, the Commission finds that this application meets the filing requirements of 11 DCMR §§ 411.24 and 411.25 to permit penthouse habitable space to be added to a building approved by the Commission as a PUD prior to January 8, 2016.

The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

Finally, the Commission finds that the modifications do not affect the essential impact of the approved PUD, including use, height, bulk, parking, or lot occupancy. The modifications are minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for minor modifications to the approved PUD, subject to the architectural plans and elevations submitted at Exhibit 9A, as modified by the architectural plans and elevations submitted at Exhibit 12A.

On May 23, 2016, upon the motion of Chairman Hood as seconded by Commissioner Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** this application by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Marcie I. Cohen, and Peter G. May to approve; Michael G. Turnbull to approve by absentee ballot).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on April 14, 2017.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:
Doctors' Council of the District of Columbia
Petitioner,
and
Department of Youth and Rehabilitation Services
Respondent.
PERB Case No. 11-U-22
Opinion No. 1613

DECISION AND ORDER

I. Introduction and Procedural Background

On February 22, 2011, the Doctors' Council of the District of Columbia ("Union" or "Complainant") filed an Unfair Labor Practice Complaint ("Complaint") against the District of Columbia Department of Youth and Rehabilitation Services ("DYRS" or "Respondent"), alleging that DYRS violated the Comprehensive Merit Personnel Act ("CMPA"), D.C. Official Code §§ 1-617.04(a)(1) and (5), by: (1) failing to engage in good faith impact and effects bargaining related to a reduction-in-force ("RIF") implemented on October 22, 2010; (2) failing to provide relevant and necessary information upon request; (3) eliminating three bargaining unit positions and transferring the work to non-bargaining unit positions; and (4) refusing to select an FMCS arbitrator after a timely request to do so was made by the Complainant.

In an Answer filed on March 10, 2011, DYRS denied that it committed any unfair labor practices and asked the Board to dismiss the Complaint. On October 29, 2011, the Board denied DYRS' request to dismiss the Complaint on the grounds that the pleadings alone were insufficient for the Board to resolve the disputed issues. The Board ordered an unfair labor practice hearing before a Board-appointed Hearing Examiner.

1 D.C. Official Code § 1-617.04(a)(1), (5) (2014); Report on Remand at 1.

2 Report on Remand at 2.

3 Doctors' Council of D.C. v. D.C. Dep't of Youth and Rehab. Serv., 59 D.C. Reg. 6865, Slip Op. 1208, PERB Case No. 11-U-22 (2011).

4 Report on Remand at 2.

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A hearing was held in this matter on August 24 and September 19, 2012 before a Hearing Examiner who issued a Report and Recommendations (“Report”) on June 17, 2013.⁵ Based on the Report, the Board dismissed two of the four charges with prejudice, concluding that the Union failed to meet its burden of proof that (1) DYRS failed to engage in impact and effects bargaining prior to the implementation of the RIF; and (2) DYRS had eliminated bargaining unit positions and replaced them with non-bargaining positions.⁶ As to the two remaining charges (failure to provide requested information and refusal to select an arbitrator), the Hearing Examiner determined that “[the Union] did not meet its burden of proof...that Respondent acted in bad faith.”⁷ The Board found that the Hearing Examiner’s conclusions were not supported by Board precedent, noting “a showing of bad faith is not required” in determining whether an unfair labor practice occurred.⁸ The Board remanded the aforementioned remaining charges to the Hearing Examiner and directed her to make factual findings and conclusions regarding: (1) whether DYRS failed to furnish relevant and necessary information requested by the Union; (2) whether DYRS’ refusal to arbitrate constituted an unfair labor practice; and (3) whether any of the remaining allegations were untimely.⁹

The Union submitted a timely Motion for Reconsideration requesting the Board to reconsider its decision regarding the timeliness of its exceptions and the adoption of the Hearing Examiner’s recommendations to dismiss two of the four unfair labor practice allegations. In Slip Opinion 1460, the Board denied the Union’s Motion.¹⁰ The case was then referred to the Hearing Examiner.

The parties jointly submitted stipulated findings of fact, contested findings of fact and other materials to the Hearing Examiner.¹¹ On May 27, 2015, the Hearing Examiner issued a Report and Recommendations on Remand (“Report on Remand”). No Exceptions to the Hearing Examiner’s Report on Remand were submitted.

II. Issues on Remand

- A. Did Complainant meet its burden of proof that Respondent committed an unfair labor practice in this matter by failing to provide the Union with relevant and necessary information that it requested?
- B. Did Complainant meet its burden of proof that the Respondent committed an unfair labor practice in this matter by refusing to select an arbitrator?

⁵ *Id.*

⁶ *Doctors’ Council of D.C. v. D.C. Dep’t of Youth and Rehab. Serv.*, 60 D.C. Reg. 16255, Slip Op. 1432, PERB Case No. 11-U-22 (2013).

⁷ *Id.*

⁸ *Id.*

⁹ Report on Remand at 2; *Doctors’ Council of D.C.*, Slip Op. 1432 at 13.

¹⁰ *Doctors’ Council of D.C. v. Dep’t of Youth and Rehab. Serv.*, 61 D.C. Reg. 5138, Slip Op. 1460, PERB Case No. 11-U-22 (2014).

¹¹ Report on Remand at 2-3.

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- C. Are any document requests made by Complainant to Respondent barred from consideration based on timeliness?

III. Discussion

A. Factual Findings

The Hearing Examiner concluded that the relevant facts are not in dispute.¹² The Hearing Examiner previously discussed the findings of fact, which are stated in Slip Opinion 1208 and Slip Opinion 1432, and are restated here only where necessary.

B. Hearing Examiner's Report and Recommendations on Remand

As noted above, no Exceptions to the Report on Remand were filed for the Board's consideration.¹³ The Board will affirm a Hearing Examiner's Report and Recommendations if the recommendations therein are reasonable, supported by the record, and consistent with Board precedent.¹⁴ Pursuant to Board Rule 520.11, "[t]he party asserting a violation of the CMPA, shall have the burden of proving the allegations of the complaint by a preponderance of the evidence." The Board has held that "issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner."¹⁵

1. Did Complainant meet its burden of proof that Respondent committed an unfair labor practice in this matter by failing to provide the Union with relevant and necessary information that it requested?

It is undisputed that on August 18, 2010, in response to a contemplated RIF, the Complainant submitted an information request to the Respondent.¹⁶ The parties agree that the Respondent did not respond to the following twelve (12) requests which are at issue here¹⁷: (1) the position description for MSS-Supervisory Medical Officer (SMO) position; (2) any analysis prepared for the SMO position; (3) the Shansky Report; (4) the Shansky contract; (5) the vendor agreements; (6) the analysis of cost/budget implications of the new medical model; (7) the

¹² *Id.* at 5.

¹³ Regardless of whether Exceptions have been filed, the Board will adopt a hearing examiner's recommendations if it finds, upon full review of the record, that the hearing examiner's analysis, reasoning, and conclusions are "rational and persuasive." *Council of Sch. Officers, Local 4, Am. Fed'n of Sch. Adm'r v. D.C. Pub. Sch.*, 59 D.C. Reg. 6138, Slip Op. 1016 at 6, PERB Case No. 09-U-08 (2010) (quoting *D.C. Nurses Ass'n and D.C. Dep't of Human Serv.*, 32 D.C. Reg. 3355, Slip Op. 112, PERB Case No. 84-U-08 (1985)).

¹⁴ *See Am. Fed'n of Gov't Emp., Local 1403 v. D.C. Office of the Attorney General*, 59 D.C. Reg. 3511, Slip Op. 873, PERB Case No. 05-U-32 and 05-UC-01 (2012); *See also Council of Sch. Officers, Local 4, Am. Fed'n of Sch. Adm'r*, Slip Op. 1016 at 6 (quoting *D.C. Nurses Ass'n and D.C. Dep't of Human Serv.*, *supra*, 32 D.C. Reg. 3355, Slip Op. 112).

¹⁵ *Council of Sch. Officers, Local 4, Am. Fed'n of Sch. Adm'r v. Slip Op. 1016 at 6; Tracy Hatton v. FOP/DOC Labor Comm.*, 47 D.C. Reg. 769, Slip Op. 451 at 4, PERB Case No. 95-U-02 (1995).

¹⁶ Joint Submission at 3.

¹⁷ Report on Remand at 7-8.

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Weisman memorandum; (8) the description of the new medical model; (9) the position descriptions for bargaining unit physicians subject to the RIF; (10) the FY2011 budget materials related to the Health Services Administration (“HSA”); (11) the list of vacancies in the D.C. System for doctors (“Vacancy List”); and (12) the Post-RIF Organization Chart for the entire HSA.

The Board has held that an agency has an obligation to furnish information that a union requests that is both relevant and necessary to the union’s role in processing a grievance, preparing for an arbitration proceeding, or in collective bargaining.¹⁸ When an agency has failed and refused, without a viable defense, to produce information that the union has requested, the agency fails to meet its statutory duty to bargain in good faith and has therefore violated D.C. Official Code § 1-617.04(a)(5).¹⁹ In addition, “a violation of the employer’s statutory duty to bargain also constitutes a violation of the counterpart duty not to interfere with the employees’ statutory rights to organize a labor union free from interference, restraint or coercion; to form, join or assist any labor organization or to refrain from such activity; and to bargain collectively through representatives of their own choosing” found in D.C. Official Code §1-617.04(a)(1).²⁰

In this case, the Board initially referred the case to a Hearing Examiner to determine the issue of whether the information requested was relevant and necessary for the Union to represent its members, the criterion which must be met in order to find that the Respondent is required to provide the information.²¹ On remand, the Hearing Examiner reviewed each of the twelve (12) documents requested and further summarized the parties’ positions as to whether the items were relevant and necessary.²² Based on an analysis of the evidence presented, the Hearing Examiner concluded that the Union did not meet its threshold burden of establishing relevancy with regard to six of the twelve items that were not provided by DYRS.²³

Specifically, the Hearing Examiner relying on what she deemed the “credible” testimony of Dean Aqiu, Esq., concluded that the Complainant failed to meet its burden in proving that a ULP was committed when the Respondent failed to provide (a) The Shansky Report; (b) the

¹⁸ *FOP/MPD, Labor Comm. v. Metro. Police Dept.*, 63 D.C. Reg. 6490, Slip Op. 1568 at 3, PERB Case No. 09-U-37 (Feb. 18, 2016); *Washington Teachers’ Union, Local No. 6 v. D.C. Pub. Sch.*, 61 D.C. Reg. 1537, Slip Op. No. 1448 at 4, PERB Case No. 04-U-25 (2014); *F.O.P./Metro. Police Dep’t Labor Comm. v. D. C. Metro. Police Dep’t*, 59 D.C. Reg. 6781, Slip Op. No. 1131 at p. 4, PERB Case No. 09-U-59 (Sept. 15, 2011); *Am. Fed’n of State, County and Municipal Emp., D.C. Council 20, Local 2921 v. D.C. Pub. Sch.*, 42 D.C. Reg. 5685, Slip Op. No. 339, PERB Case No. 92-U08 (1992).

¹⁹ *Am. Fed’n of Gov’t Emp., Local 2725 v. D.C. Dep’t of Health*, 59 D.C. Reg. 6003, Slip Op. No. 1003 at p. 4, PERB Case 09-U-65 (2009) (citing *Psychologists Union, Local 3758 of the D.C. Dep’t of Health, 1199 National Union of Hospital and Health Care Employees, Am. Fed’n of State County and Municipal Emp., AFL-CIO v. D.C. Dep’t of Mental Health*, 54 D.C. Reg. 2644, Slip Op. No. 809, PERB Case No. 05-U-41).

²⁰ *Id.* (quoting *Am. Fed’n of State, County and Municipal Emp., Local 2776 v. D.C. Dep’t of Finance and Revenue*, 37 D.C. Reg. 5658, Slip Op. No. 245 at p. 2, PERB Case No. 89-U-02 (1990)).

²¹ Slip Op. 1208 at 7.

²² Report on Remand at 8.

²³ *Id.* at 9.

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Shansky Contract; (c) the FY2011 budget materials; (d) the Vacancy List; (e) the Organization chart²⁴; and (f) the Weisman Memorandum.²⁵

We reject, in part, the Hearing Examiner's findings here. A review of the record shows that Mr. Aqui characterized the Respondent's failure to provide the FY2011 budget materials as an oversight.²⁶ He also did not provide the Vacancy List, in part because of an oversight, but also because he thought that the Union could get it just as easily on a website.²⁷ Neither of these responses excuses the failure to provide the information nor constitutes a defense that the information was not relevant and necessary. Because the Respondent failed to provide the information when it clearly stated it would do so, under the facts of this case, the Board finds that the Respondent's failure to provide the FY2011 budget materials and the Vacancy List is an unfair labor practice.

The Hearing Examiner determined that the Complainant "offered a reasonable explanation" regarding the relevancy of each of the remaining documents and therefore met its burden of proof on the six remaining information requests, namely; (a) the position description for the SMO position; (b) any analysis prepared for the SMO position; (c) the Vendor Agreements; (d) the analysis of cost/budget implications of the new medical model; (e) the description of the new medical model; and (f) the position descriptions for bargaining unit physicians subject to the RIF.²⁸

The Board finds that the Hearing Examiner's findings that Respondent committed an unfair labor practice by failing to provide the Complainant with these six (6) items are reasonable, supported by the record, and consistent with Board precedent. Accordingly, the Board adopts the Hearing Examiner's findings and conclusions and finds that the Respondent failed to meet its statutory duty to bargain in good faith in violation of D.C. Official Code §1-617.04(a)(1).

2. Did Complainant meet its burden of proof that the Respondent committed an unfair labor practice in this matter by refusing to select an arbitrator?

On remand, the Board directed the Hearing Examiner to make factual findings and conclusions as to whether the Respondent's refusal to arbitrate was an unfair labor practice.²⁹

²⁴ Mr. Aqui testified at the Hearing that he did provide the Organization chart (Tr. at 268-269). We therefore agree with the Hearing Examiner that there is no ULP for failure to provide it.

²⁵ *Id.* at 9.

²⁶ *Id.* at 8.

²⁷ *Id.*

²⁸ Report on Remand at 10.

²⁹ *Doctors' Council of D.C.*, Slip Op. 1432 at 13.

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The Board has held that a party commits an unfair labor practice when it fails or refuses to implement a viable collective bargaining agreement where no dispute exists over its terms.³⁰ The Board has found that such conduct constitutes a repudiation of the collective bargaining process and a violation of the duty to bargain.³¹ However, there is no statutory violation if the complainant does not offer “any specifics indicating a repudiation of the agreement” as opposed to disputes over its terms.³² In order to determine whether a party’s failure to implement the agreement is a statutory violation, the Board must decide whether a party’s actions were reasonable under the circumstances of the case.³³ For example, in *Fraternal Order of Police/Dep’t of Youth Rehabilitation Services Labor Comm. v. D.C. Dep’t of Youth Rehabilitation Services*, the Board found that an agency did not act in bad faith in refusing to reinstate an employee as a part of a negotiated agreement when it learned that reinstating the employee would be in violation of District law.³⁴ The Board concluded that such a scenario constitutes a genuine dispute over the terms of an agreement, and an agency does not violate the CMPA by failing to implement the terms of the agreement.³⁵

The facts of the instant case are similar to those of *Fraternal Order of Police/Dep’t of Youth Rehabilitation Services Labor Committee*. In each case, the agency was obligated to comply with a negotiated agreement, and in each case the agency learned that District law prohibited compliance with the agreement. In the current matter, the Hearing Examiner noted that DYRS’ refusal to arbitrate was limited to reduction-in-force (“RIF”) related issues, and its reasoning was based on the D.C. Superior Court decision, *AFGE Local No. 383, AFL-CIO v. District of Columbia*, (“Leibowitz decision”).³⁶ Furthermore, the Hearing Examiner found that the evidence established that DYRS reasonably relied on the Leibowitz decision to support its position that the Abolishment Act (D.C. Official Code § 1-624.08) invalidated the arbitration clause in the parties’ bargaining agreement.³⁷ The Hearing Examiner found that even though two other judges of the Superior Court reached contrary conclusions on that issue, the Leibowitz decision was the only decision pending at the time of DYRS’ refusal to select an arbitrator.³⁸ As such, the Hearing Examiner found that the evidence did not establish that DYRS’ position and

³⁰ *E.g., Teamsters Local Union Nos. 639 & 730 v. D.C. Pub. Sch.*, 43 D.C. Reg. 6633, Slip Op. 400 at 7, PERB Case No. 93-U-29 (1994); *D.C. Water & Sewer Auth. v. AFGE, Local 872*, 59 D.C. Reg. 4659 Slip Op. No. 949 at 6-7, PERB Case No. 05-U-10 (2009).

³¹ *AFGE, Local 872, AFL-CIO v. D.C. Water and Sewer Auth.*, 46 D.C. Reg. 4398, Slip Op. 497, PERB Case No. 96-U-23 (1996); *Teamsters Local Union Nos. 639 & 730 v. D.C. Pub. Sch.*, Slip Op. No. 400 at 7; *See also Am. Fed’n of State, County, and Municipal Emp., District Council 20 v. D.C. Gov’t*, Slip Op. No. 1387 at 4, PERB Case No. 08-U-36 (2013).

³² *Id.*; *AFSCME AFL-CIO v. D.C. Gov’t*, Slip Op. 1387, PERB Case No. 08-U-36 (2013); *Teamsters Local Union Nos. 639 & 730*, 43 D.C. Reg. 6633, Slip Op. No. 400 at 7, PERB Case No. 93-U-29 (1994). *See also D.C. Water & Sewer Auth. v. AFGE, Local 872*, 59 D.C. Reg. 4659, Slip Op. 949 at 6-7, PERB Case No. 05-U-10 (2009).

³³ *See, Watkins v. D.C. Dep’t of Corrections*, Slip Op. 655, PERB Case No. 99-U-28 (2001) (finding that “the question that the Board must answer is whether a two month period was a reasonable time for the DOC to implement the award....”).

³⁴ *Fraternal Order of Police/Dep’t of Youth Rehabilitation Services Labor Comm. v. D.C. Dep’t of Youth Rehabilitation Services*, 59 D.C. Reg. 6755, Slip Op. No. 1127, PERB Case No. 11-U-31 (2011).

³⁵ *Id.*

³⁶ Report on Remand at 12.

³⁷ *Id.* at 13; *See AFGE Local No. 383, AFL-CIO v. The District of Columbia, et. al*, N. 2008 CA 006932B (D.C. Super. Ct. 2009).

³⁸ Report on Remand at 14.

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reliance on the Leibowitz decision was unreasonable at the time. Therefore, the Hearing Examiner concluded that the Complainant did not meet its burden of proof that Respondent's refusal to arbitrate, based on its reliance on the Leibowitz decision, constituted an unfair labor practice.³⁹

The Board notes, however, that after the Hearing Examiner rendered her Report in this case, the D.C. Court of Appeals held that RIFs are governed by the Abolishment Act (D.C. Code § 1-625.08), and not by the parties' CBA, rendering RIFs not arbitrable.⁴⁰ Without relying on the Court Of Appeals' recent holding, the Board finds that the Hearing Examiner's recommendation that the Complainant did not meet its burden of proof that Respondent's refusal to arbitrate constituted an unfair labor practice is consistent with the precedent set in *Fraternal Order of Police/Dep't of Youth Rehabilitation Services Labor Committee*. Accordingly, the Board finds that this recommendation is reasonable, supported by the record, and based on Board precedent.⁴¹ Therefore, the Board adopts the Hearing Examiner's recommendations that the Complainant's allegations concerning the Respondent's refusal to arbitrate be dismissed.

3. Are any document requests made by Complainant to Respondent barred from consideration based on timeliness?

The Board raised the issue of whether any of Complainant's information requests were untimely in Slip Opinion 1432 and directed the Hearing Examiner to make factual findings and conclusions regarding the timeliness of the remaining allegations.⁴² Even though the parties did not argue that the Board lacked jurisdiction in the pleadings, the Board has the authority to raise jurisdiction before a Decision and Order becomes final.⁴³

The Hearing Examiner noted that under Board Rule 520.4, unfair labor practice complaints must be filed no later than 120 days after the date on which the alleged violations occurred.⁴⁴ The Court of Appeals has interpreted Board Rule 520.4 to require that a Complainant file a complaint within 120 days after the Complainant knew or should have known of the events giving rise to the allegations.⁴⁵ Board Rule 520.4 is mandatory and jurisdictional. Thus, the Board does not have the discretion to make exceptions for extending the deadline for initiating an action.⁴⁶

In calculating the timeliness of the remaining information requests, the Hearing Examiner applied a "reasonableness standard" stating:

³⁹ *Id.*

⁴⁰ *UDC v. AFSCME*, Dist. Council 20, Local 2087, 130 A.3d 335 (D.C. 2016).

⁴¹ *AFSCME, District Council 20, AFL-CIO v. D.C. Gov't*, 60 D.C. Reg. 7170, Slip Op. 1377, PERB Case No. 08-U-36 (2013).

⁴² Report on Remand at 12-13.

⁴³ *Fraternal Order of Police/Metro. Police Dep't, Labor Comm. v. D.C. Metro. Police Dep't*, 60 D.C. Reg. 5322, Slip Op. 1372, PERB Case No. 11-U-52(a) (2013).

⁴⁴ Report on Remand at 14.

⁴⁵ *See, Hoggard v. Pub. Emp. Relations Bd., MPA-93-33* (Super. Ct. 1994), *aff'd*, 655 A 2d. 320 (D.C. 1995).

⁴⁶ *Id.*

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In *Forrester v. AFGE, Local 2725 and D.C. Housing Authority*, the Board established a reasonableness standard that would be applied on a case-by-case basis. Allegations of violations that precede the 120 day period are not automatically dismissed as untimely since the parties may communicate a period of time before the Union can reach the decision that the employer is not going to provide the requested information.⁴⁷

The Hearing Examiner found that between August 11, 2010 and November 15, 2010, the parties discussed the information requests.⁴⁸ Noting that in the parties' final communication on November 15, 2010, Mr. Aqui stated that the Respondent determined that some of the information requested would be provided "shortly."⁴⁹ The Union filed its complaint on February 11, 2011. Accordingly, the Hearing Examiner found that some of the information requests were initially made outside of the 120 days, but concluded that it was reasonable for the Complainant to delay filing the Complaint "several weeks" after the parties' final communication on November 15 "while communications were ongoing and documents were being provided."⁵⁰ Thus, she determined that December 1, 2010 was a reasonable date by which the Complainant knew or should have known that the Respondent was not going to provide the additional documents.⁵¹ This date is well within the 120 day requirement. Therefore, the Hearing Examiner concluded that none of the information requests should be dismissed as untimely.⁵²

The Board concludes that the Hearing Examiner's findings that December 1, 2010 is a reasonable date by which the Complainant knew or should have known that the Respondent was not going to provide the additional documents is reasonable, supported by the record, and consistent with Board precedent. Therefore, we adopt the Hearing Examiner's conclusion that none of the Union's information requests should be dismissed as untimely.

4. Remedy

In view of the Hearing Examiner's Report on Remand and the Board's decision in Slip Opinion 1432, the Hearing Examiner reviewed only the issues of costs and *status quo ante* relief. Regarding costs, having determined that the Union did not meet its burden of proof in three of the four issues presented in this matter, the Hearing Examiner recommended that the Board not award costs as the "Complainant was not successful in a significant part of this matter and therefore did not meet the first requirement established by the Board" in *AFSCME, D.C. Council 20, Local 2776 v. D.C. Department of Finance and Revenue*.⁵³ In that case, the Board held that "any such award of costs necessarily assumes that the party to whom the payment is to be made was successful in at least a significant part of the case, and that the costs in question are

⁴⁷ Report on Remand at 14 (internal citations omitted).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* at 15.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*; *AFSCME, D.C. Council 20, Local 2776 v. D.C. Dep't of Finance and Revenue*, 73 D.C. Reg. 5658, Slip Op. 245 at 4-5, PERB Case No. 98-U-02 (2000) .

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attributable to that part.”⁵⁴ In Slip Opinion 1432, the Board dismissed two of the four claims the Union presented in this matter.⁵⁵ In the present case, the Hearing Examiner recommended that the Board dismiss the Union’s charge that DYRS committed an unfair labor practice by refusing to select an arbitrator and the Board adopted this recommendation. Accordingly, it cannot be stated that the Complainant was successful in at least a significant part of the case. Therefore, the Board adopts the Hearing Examiner’s recommendation that the Board not award costs.

With regard to the Complainant’s request for *status quo ante* relief that the Board (a) rescind the RIF; (b) reinstate the RIF’d bargaining unit members; and (c) cancel the relevant vendor agreements,⁵⁶ the Hearing Examiner recommended that the Board deny the relief sought here because: “(1) rescission of the management decision would disrupt or impair the agency’s operation and (2) there is no evidence that the results of such bargaining would negate the management’s decision.”⁵⁷ The Board finds that the Hearing Examiner’s recommendation is reasonable, supported by the record and consistent with Board precedent. Therefore, the Board adopts the Hearing Examiner’s recommendation that the Union’s request for *status quo ante* relief be denied.

IV. Conclusion

Pursuant to D.C. Code § 1-605.02(3), the Board has reviewed the Hearing Examiner’s findings, conclusions, and recommendations and for the reasons discussed above, the Board adopts the Hearing Examiner’s Report and Recommendations on Remand to the extent that they are consistent with this Opinion.

ORDER

IT IS HEREBY ORDERED THAT:

⁵⁴ *Id.*

⁵⁵ *Doctors’ Council of D.C.*, Slip Op. 1432.

⁵⁶ Report on Remand at 16.

⁵⁷ *Id.* (citing *Am. Fed’n of Gov’t Emp., Local 872 et al. v. D.C. Dep’t of Pub. Works*, 49 D.C. Reg. 1145 (2002), Slip Op. 439, PERB Case No. 94-U-02 and 94-U-04 (1995)). In Slip Op. 1432, the Board adopted the Hearing Examiner’s recommendation that the Union failed to meet its burden of proof that DYRS committed an unfair labor practice by refusing to engage in good faith impact and effects bargaining before implementing the RIF. (Slip Op. 1432 at 7). Even if the Board had found that DYRS committed an unfair labor practice, the Board has held that *status quo ante* relief is generally inappropriate to remedy a refusal to bargain over impact and effects. (*AFSCME Local 383 v. D.C. Dep’t of Mental Health*, 52 D.C. Reg. 2527, Slip Op. 753 at 7, PERB Case No. 02-U-16 (2004) (citing *FOP/MPDLC v. MPD*, 47 D.C. Reg. 1449, Slip Op. 607, PERB Case No. 99-U-44 (2000))).

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1. The Department of Youth and Rehabilitation Services (“DYRS”), its agents, and its representatives shall cease and desist from refusing to bargain in good faith by failing to provide the documents and information requested by the Complainant.
2. Within ten (10) days from the issuance of this Decision and Order, DYRS shall furnish the Complainant with:
 - a. The FY2011 Budget materials related to the HSA;
 - b. The Vacancy List;
 - c. The position description for the MSS-SMO position;
 - d. The analysis for the MSS-SMO position;
 - e. The Vendor Agreements;
 - f. The analysis of cost/budget implications for the new medical model;
 - g. The description of the new medical model, other than the Shansky Report; and
 - h. The position descriptions for bargaining unit physicians subject to the RIF.
3. DYRS shall notify the Board of its compliance with this Order within ten (10) days from the issuance of this Decision and Order.
4. DYRS shall conspicuously post where the notices to employees are normally posted, a notice that the Board will furnish to DYRS. The notice shall be posted within ten (10) days from DYRS’ receipt of the notice and shall remain posted for thirty (30) consecutive days.
5. DYRS shall notify the Public Employee Relations Board (“PERB” or “Board”), in writing, within fourteen (14) days from the receipt of the notice that it has been posted accordingly.
6. The Complainant’s allegations that the Respondent unlawfully refused to select an arbitrator is dismissed with prejudice.
7. The Complainant’s information requests are timely.
8. The Complainant’s requests for additional relief are denied.
9. Pursuant to Board Rule 559.1, this Decisions and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By the unanimous vote of Board Chairperson Charles Murphy and Members Ann Hoffman and Douglas Warshof.

February 23, 2016

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 11-U-22, Op. No. 1613 was sent by File and ServeXpress to the following parties on this the 24th day of February, 2017.

Rupunzelle Johnson, Esq.
Office of Labor Relations and
Collective Bargaining
441 4th St., NW
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Washington, D.C. 20001

Wendy Khan
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Doctors' Council of the
District of Columbia
2700 Martin Luther King, Jr. Avenue, SE
Washington, DC 20032

/s/ Sheryl Harrington
PERB

Government of the District of Columbia
Public Employee Relations Board

_____)	
In the Matter of:)	
)	
Dancy Simpson, Pamela Chase, Ernest Durant,)	PERB Case Nos. 10-S-05
Shante Briscoe, et al.,)	10-S-07
)	10-S-08
Complainants,)	10-S-09
)	
v.)	
)	Opinion No. 1614
Fraternal Order of Police/Department)	
of Corrections Labor Committee,)	Motion for Reconsideration
)	
Respondent.)	
_____)	

DECISION AND ORDER

On December 1, 2016, the Board issued Opinion No. 1601 (Corrected Copy) in the above captioned case, finding that the Respondent, the Fraternal Order of Police/Department of Corrections Labor Committee (“FOP” or “Union”), committed several standards of conduct violations during its 2010 election of union officers. The Board ordered FOP to post a Notice detailing the violations where notices to bargaining-unit employees are customarily posted.

On December 14, 2016, FOP filed a Motion for Reconsideration, stating that it did not object to the Board’s order, “except insofar as to the language within the Notice that is to be posted....” The specific language FOP objects to reads:

If employees have any questions concerning this Notice or FOP/DOC’s compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board by U.S. Mail at 1100 4th Street, SW, Suite E630; Washington, D.C. 20024, or by phone at (202) 727-1822.

FOP argues that this language “invites *ex parte* communications with the Board.” FOP asserts that since the Board’s Decision and Order is a matter of public record and the posting “speaks for itself,” the language is “better left out of the Notice.” FOP further contends that “the need to guard against opportunities for miscommunication is a real concern for the Union,

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because a small group of the Union membership has been intent on filing a multiplicity of standards of conduct violations after every election that is held” and that such communications “will unduly interfere with the responsibility of the Labor Committee to manage the internal affairs of the Union and cause significant disruption within its membership.” Thus, FOP requests that the Board “reconsider the language in the Notice and amend it to omit the language ... that suggests that interested parties may contact PERB for questions regarding the Notice and compliance thereto.”¹

FOP’s motion is denied. PERB Rule 500.17 states that no “party shall engage in any *ex parte* communication with a hearing officer or with any member of the Board regarding proceedings pending before the Board.” PERB Rule 500.19 states in relevant part that “*ex parte* communications concerning the merits of any matter before the Board for adjudication ... are prohibited from the time the persons have knowledge that the matter may be considered by the Board until the Board has rendered a final decision.”

Here, PERB Rule 500.17 clearly states that only a “party” to a case is forbidden from engaging in *ex parte* communications, and then only while the case is “pending” before the Board. Similarly, PERB Rule 500.19 only prohibits *ex parte* communications in “matters before the Board for adjudication ... until the Board has rendered a final decision.” Once the Board has issued a final decision in a case and the notice has been posted, the matter is no longer “pending” before the Board or being “adjudicated.” Furthermore, any inquiries about the decision from bargaining unit members would be directed to PERB’s staff, and not to “a hearing officer” or toward any of PERB’s Board members.

Therefore, the Board finds that the cited language in the Notice—which is boilerplate and has always been included in the notices issued by the Board²—does not invite prohibited *ex parte* communications. Indeed, as a matter of public policy, when the Board finds that a union has breached the standards of conduct in violation of the CMPA, members of the bargaining unit need to be able to communicate any questions they may have about the decision to an impartial third party. Under D.C. Official Code § 1-605.01(b), PERB is that impartial third party. Accordingly, the Board sustains its findings and Orders in Slip Op No. 1601 (Corrected Copy), and FOP’s Motion for Reconsideration is denied.

¹ Motion for Reconsideration at 1-3.

² See, e.g. *Fraternal Order of Police/Metro. Police Dep’t Labor Comm. v. Dist. of Columbia Metro. Police Dep’t*, 37 D.C. Reg. 2704, Slip Op. No. 242, PERB Case No. 89-U-07 (1990) (in which the Notice the Board ordered to be posted included the following language: “If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, whose address is: 415 12th Street, N.W., Suite 309, Washington, D.C. 20004”).

Decision and Order – Motion for Reconsideration
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ORDER

IT IS HEREBY ORDERED THAT:

1. FOP’s Motion for Reconsideration is denied;
2. FOP shall immediately cease violating its bylaws, constitution, and the CMPA in the conduct of its internal elections, as described in Slip Op. No. 1601 (Corrected Copy);
3. FOP shall conspicuously post, within fourteen (14) calendar days of the service of this Decision and Order, the attached Notice detailing its violations of the CMPA where notices to bargaining-unit employees are customarily posted;
4. Said Notice shall remain posted for thirty (30) consecutive days;
5. Within twenty-one (21) days of the service of this Decision and Order, FOP shall notify the Board in writing that the Notice has been posted as ordered; and
6. Pursuant to Board Rule 559.3, this Decision and Order is final upon issuance.

BY ORER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, and members Ann Hoffman and Douglas Warshof. Member Barbara Somson was not present.

February 23, 2017

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case Nos. 10-S-05, *et al.*, Op. No. 1614 was transmitted to the following parties on this the 27th day of February, 2017.

J. Michael Hannon, Esq.
J. Scott Hagood, Esq.
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/s/ Sheryl Harrington
PERB



Public Employee Relations Board



1100 4th Street, SW Suite E630 Washington, D.C. 20024 Business: (202) 727-1822 Fax: (202) 727-9116 Email: perbi@dc.gov

NOTICE

TO ALL BARGAINING UNIT MEMBERS OF THE FRATRENAL ORDER OF POLICE/DEPARTMENT OF CORRECTIONS LABOR COMMITTEE, THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISIONS AND ORDERS IN SLIP OPINION NOS. 1601 (CORRECTED COPY) (DECEMBER 1, 2016) AND 1614 (FEBRUARY 27, 2017), PERB CASE NOS. 10-S-05, ET AL.

WE HEREBY NOTIFY our members that the District of Columbia Public Employee Relations has ordered FOP/DOC to post this Notice pursuant to the Board's finding in Slip Opinion No. 1601 (Corrected Copy) that we violated the law in the conduct of our 2010 election of union officers, by:

1. imposing qualifications for voting in the 2010 election that were not contained in the union's bylaws;
2. not effectively posting the nomination and election notices in all work areas where members were employed;
3. destroying all election ballots and materials 13 days after the 2010 election; and
4. wrongly denying Shante Briscoe's candidacy for the office of Executive Secretary.

WE WILL cease and desist from violating the CMPA in these manners, as ordered in Slip Opinion Nos. 1601 (Corrected Copy).

Fraternal Order of Police/Department of Corrections Labor Committee

Date: _____ By: _____

This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or FOP/DOC's compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board by U.S. Mail at 1100 4th Street, SW, Suite E630; Washington, D.C. 20024, or by phone at (202) 727-1822.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

February 27, 2017

Washington, D.C.

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