



BOARD OF DENTISTRY

899 NORTH CAPITOL ST. NE – 2ND FL.

WASHINGTON, DC 20002

Date: November 17, 2021

Time: 9:00 AM

OPEN SESSION
MEETING AGENDA

WEBEX Virtual Meeting

Due to the COVID-19 pandemic, all board meetings are held virtually during the declared public health emergency.

Information on how to access the public portion of the meeting is listed below:

This meeting is available by web:

https://dcnet.webex.com/dcnet/j.php?MTID=m9f9126b61531ee2a059436115674d953

Meeting number: 160 597 7295 Password: R6Mm8PPPmS3

This meeting is available by phone:

1-202-860-2110 United States Toll (Washington D.C.) 1-650-479-3208 Call-in toll number (US/Canada)

Access code: 160 597 7295





BOARD OF DENTISTRY Open Session Agenda November 17, 2021

BOARD MEMBERS:	
Dr. Wesley Thomas, DMD – Excused Absence	
Dr. John R. Bailey, DDS – Interim Chairperson	
Ms. Yolanda Josey- Baker, RDH- Interim Vice-Chairperson	
Dr. Judith Henry, DDS - Board Member	
Dr. Iris Jeffries-Morton, DDS- Board Member	
Ms. Dianne Smith, ESQ - Consumer Member	
Dr. Michelle Latortue, DDS-Board Member	
BOARD STAFF:	
Ericka L. Walker, MSW - Executive Director	
Gregory Scurlock, Compliance Officer	
Rebecca Odrick, Board Investigator	
Kathleen Ibeh, Health Licensing Specialist	
LEGAL STAFF:	
Carla M. Williams, Senior Assistant General Counsel	





BOARD OF DENTISTRY

Open Session Agenda November 17, 2021

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OS-1117-01 INTRODUCTIONS:

- **Board Members**
- B. Board Staff
- C. Public Attendance

OS-1117-02 Board Action:

Acceptance of the **November 17, 2021**, meeting agenda.

OS-1117-03 OPEN SESSION MINUTES:

Board Action:

Consideration of the Open Session minutes from the October 20, 2021, meeting.

MINUTES AND STAFF REPORTS

OS-1117-04 **EXECUTIVE DIRECTOR'S REPORT**:

1. BOD Calendar

- November 17, 2021
 - December 15, 2021
 - January 19, 2022
 - February 16, 2022
 - March 16, 2022
 - April 20, 2022
 - May 18, 2022
 - June 15, 2022
 - July 20, 2022
 - August 2022 (Recess)
 - September 21, 2022

2. BOD Census

Dentists (1,364)

Dental Hygienists (526)

Dental Hygienists with the authority to administer Local Anesthesia (104)

Dental Hygienists with the authority to administer Local Anesthesia & Nitrous Oxide (65)

Dental Hygienists with the authority to administer Nitrous Oxide-

Dental Assistant Level 1 (135)

Dental Assistant Level 2 (606)

Teaching Licenses for Dentists (1)

Teaching Licenses for Dental Hygienist (0)

District of Columbia COVID-19

https://coronavirus.dc.gov/vaccine





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OS-1117-05	BOARD ATTORNEY'S REPORT:	
	 A. Policy: Temporary Waiver of DC Take Home Law Exam for Dentist B. Policy: Temporary Waiver of DC Take Home Law Exam for Dental Hygienist C. Temporary Waiver of Limits on use of Approved Internet Continuing Education Courses for Renewal, Reinstatement, or Reactivation for Dental Assistants Teaching License for Dentist Teaching License for Dental Hygienist D. Health Professionals Reporting Requirements E. DC Alcohol Beverage Regulation Administration (ABRA) Medical Cannabis Recommendation threshold for authorized practitioners. 	
OS-1117-06	BOARD CHAIRPERSON'S REPORT:	
OS-1117-07	PRESENTATION: • District Addiction Consultation Service	
DISCUSSI		
OS-1117-08	LEGISLATIVE HEARINGS- FYI Only	
	http://dccouncil.us/events/list	
OS-1117-09	DENTAL BOARD SUB-COMMITTEES	
	 Credentials & Audits: Dr. Iris Jeffries-Morton, Dr. John Bailey, and Ms. Yolanda Josey-Baker, RDH 	
	2. Communications : Ms. Yolanda Josey-Baker, RDH	
	 Regulatory Affairs: Dr. Judith Henry, Ms. Dianne Smith, Esq. and Ms. Yolanda Josey-Baker RDH 	
OS-1117-10	COMMENTS FROM PUBLIC	





BOARD OF DENTISTRY

Open Session Agenda November 17, 2021

CLOSING		
OS-1117-11	MOTION TO CLOSE	
	The Board member should move as follows:	
	"Mister Board Chair, I move that the Board close the Open Public session portion of the meeting and move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the following purposes: to discuss disciplinary matters pursuant to § 2-575(b)(9); to seek the advice of counsel to the board, to preserve the attorney-client privilege, or to approve settlement agreements pursuant to § 2-575(b)(4); and to plan, discuss, or hear reports concerning ongoing or planned investigations pursuant to § 2-575(b)(14)."	
	ROLL CALL VOTE	
	This concludes the Public Open Session of the meeting. The Board will now move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the reasons set forth in the motion.	

This ends the Open Session Agenda. The next meeting is scheduled for December 15, 2021.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.





BOARD OF DENTISTRY 899 NORTH CAPITOL ST. NE, 2nd FL. WASHINGTON, DC 20002

Date: October 20, 2021

Time: 9:00 AM

OPEN SESSION MEETING MINUTES

WEBEX Virtual Meeting

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Access code: 160 597 7295





BOARD OF DENTISTRYOpen Session Meeting Minutes October 20, 2021

BOARD MEMBERS:	
Dr. Wesley Thomas, DMD – Excused Absence	Excused Absence
Dr. John R. Bailey, DDS – Interim Chairperson	Present
Dr. Judith Henry, DDS - Board Member	Present
Dr. Iris Jeffries-Morton, DDS- Board Member	Present
Ms. Yolanda Josey- Baker, RDH- Board Member	Present
Ms. Dianne Smith, ESQ - Consumer Member	Present
Dr. Michelle Latortue, DDS-Board Member	Present
BOARD STAFF:	
Frank Meyers, JD - Associate Deputy Director	Present
Ericka L. Walker, MSW - Executive Director	Present
Gregory Scurlock, Compliance Officer	Present
Rebecca Odrick, Board Investigator	Present
Kathleen Ibeh, Health Licensing Specialist	Present
LEGAL STAFF:	
Carla M. Williams, Senior Assistant General Counsel	Present





BOARD OF DENTISTRY

Open Session Meeting Minutes October 20, 2021

CALL TO ORDER AND ROLL CALL

OS-1020-01 INTRODUCTIONS

The meeting was called to order at 9:01am as a quorum was maintained

Board Members

Dr. Wesley Thomas, DMD Chairperson (Excused Absence)

Dr. John Bailey, DDS – Interim Chairperson (**Present**)

Dr. Judith Henry, DMD – Board Member (**Present**)

Dr. Iris Jeffries-Morton, DDS – Board Member (**Present**)

Ms. Yolanda Josey-Baker, RDH – Board Member (**Present**)

Ms. Dianne Smith, Esq. – Consumer Member (**Present**)

Dr. Michelle Latortue, DDS – Board Member (**Present**)

Board Staff

Frank Meyers, JD - Associate Deputy Director (**Present**)

Ericka L. Walker, MSW – Executive Director (**Present**)

Gregory Scurlock, Compliance Officer (**Present**)

Rebecca Odrick, Investigator (**Present**)

Kathleen Ibeh, Health Licensing Specialist (Present)

Public Attendance

Mr. Kurt Gallagher, Executive Director – DC Dental Society (**Present**)

Mr. Brett Greene, President/CEO, American Management Corp. (Present)

Mr. Chris Salierno, Chief Dental Officer, TEND Dental (Present)

Mr. Thomas Merritt, TEND Dental (**Present**)

Mr. Max Brown, TEND Dental (Present)

OS-1020-02 Board Action:

Acceptance of the **October 20, 2021,** meeting agenda.

Motion: The Board to accept the October 20, 2021 Meeting Agenda

Moved by: Dr. Iris Jeffries-Morton, (Board Member) **Seconded by:** Dr. Judith Henry, (Board Member)

Motion passed unanimously

OS-1020-03 **OPEN SESSION MINUTES:**

Board Action:

Consideration of the Open Session minutes from the **September 15, 2021**, meeting.

Motion: The Board voted to approve with changes to update Attorney Carla Williams report.

Moved by: Ms. Dianne Smith, Esq., (Board Member)

Seconded by: Ms. Yolanda Josey-Baker, RDH, (Board Member)

Motion passed unanimously





MINUTES AND STAFF REPORTS

OS-1020-04

EXECUTIVE DIRECTOR'S REPORT:

Mrs. Ericka Walker, Executive Director for the Board of Dentistry, welcomed all Board Members, Staff and Guests to the Open Session meeting. Mrs. Walker informed meeting attendees about upcoming Board meeting dates, conferences, and current census reports which are located on the Open Session Agenda. She also informed meeting attendees that the Renewal Portal would be opening soon, allowing licensees to upload COVID-19 mandate for vaccination attestations. Mrs. Walker discussed the COVID-19 Pandemic Health & Healthcare Recovery Report which highlights the District's response to and updates regarding the pandemic. She also discussed DC Health's initiatives in addressing opioid usage and abuse in the District. This concluded Mrs. Walkers' report.

Frank Meyers, Associate Deputy Director, discussed the Declaration of the Director of the District of Columbia Department of Health. He outlined the proposed licenses for a temporary 90 license and the reciprocity licensure, to include the health professions that would be impacted.

1. BOD Calendar

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- November 17, 2021
- December 15, 2021
- January 19, 2022
- February 16, 2022
- March 16, 2022
- April 20, 2022
- May 18, 2022
- June 15, 2022
- July 20, 2022
- August 2022 (Recess)
- September 21, 2022

2. **BOD Conferences**

-The AADB Annual meeting October 30-31, 2021

3. BOD Census

Dentists (1370)

Dental Hygienists (530)

Dental Hygienists with the authority to administer Local Anesthesia (105)

Dental Hygienists with the authority to administer Local Anesthesia & Nitrous Oxide (64)

Dental Hygienists with the authority to administer Nitrous Oxide-(3)

Dental Assistant Level 1 (137)

Dental Assistant Level 2 (611)

Teaching Licenses for Dentists (1)

Teaching Licenses for Dental Hygienist (0)





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OS-1020-05	 BOARD ATTORNEY'S REPORT: During the Board meeting, Attorney Carla Williams addressed the following: Continuing education requirements satisfied through approved internet courses for dental assistants and teaching license for dentist and dental hygienist. Dental Assistant externship. Clean Hands
OS-1020-06	BOARD CHAIRPERSON'S REPORT: None
DISCUSSION	ITEMS
OS-1020-07	http://dccouncil.us/events/list
OS-1020-08	Continuing education requirements satisfied through approved internet continuing education courses for: • Dental Assistants Level 1 and Level 2 • Teaching License for Dentist • Teaching License for Dental Hygienist Motion: The Board to have policy drafted to allow for CE requirements to be satisfied through internet CE courses for all license types under the Board of Dentistry. Moved by: Dr. Judith Henry, (Board Member) Seconded by: Dr. Iris Jeffries-Morton, (Board Member) Motion passed unanimously
OS-1020-09	Board of Dentistry DC Law Exam Waive the Board of Dentistry DC Law take home exam for dentists and dental hygienists until the Board approves a new exam based on the updated regulations. Motion: The Board to waive the current DC Law take home exam for dentists and dental hygienists until new exam (based on updated regulations) is approved. Moved by: Dr. Judith Henry, (Board Member) Seconded by: Ms. Dianne Smith, Esq. (Board Member) Motion passed unanimously
OS-1020-10	CHERYLE BAPTISTE, DDS-DENTAL ASSISTANT EXTERNSHIP 1. Email attached Motion: The Board to approve externship training sites in the District of Columbia for dental assistant students, and open the floor for discussion on this motion. Moved by: Ms. Dianne Smith, Esq. (Board Member) Seconded by: Dr. Iris Jeffries-Morton, (Board Member) Motion passed unanimously. The motion was open for discussion; however no one offered any discussion.





OS-1020-11 BRETT GREENE, PRESIDENT/CEO AMERICAN MANAGEMENT CORPORATION

1. Email attached

Mr. Brett Greene, President/CEO of American Management Corporation, outlined his concerns regarding the Dental Assistance licensing process. Mr. Meyers, Ms. Williams, and Dr. Bailey addressed Mr. Greene's concerns.

OS-1020-12 **Board Vice-Chairperson**

Dr. Judith Henry nominated Ms. Yolanda Josey-Baker, for Interim Vice-Chairperson.

Motion: The Board to approve Ms. Josey-Baker as Interim Vice-Chairperson.

Moved by: Dr. Iris Jeffries-Morton, (Board Member) **Seconded by**: Ms. Dianne Smith, Esq., (Board Member)

Motion passed unanimously.

OS-1020-13 **DENTAL BOARD SUB-COMMITTEES**

1. Credentials & Audits:

Dr. Iris Jeffries-Morton/Dr. John Bailey/Ms. Yolanda Josey-Baker, RDH

Dr. Jeffries-Morton, (Board Member), reported that a temporary revision for the Dental Law Exam is ready and will be submitted to the Board soon. The sub-committee is currently working on the Dental Hygienist DC Law Exam.

2. Communications:

Ms. Yolanda Josey-Baker, RDH

No report.

3. Regulatory Affairs:

Dr. Judith Henry/Ms. Dianne Smith, Esq./Ms. Yolanda Josey-Baker RDH

Dental Specialties Bill

Motion: The Board to move Dental Specialties Bill draft forward to begin the legislative process.

Moved by: Ms. Dianne Smith, Esq.

Seconded by: Ms. Yolanda Josey-Baker, RDH

Board voted unanimously.

Ms. Dianne Smith, Esq., (Board Member) sought the opinion of The Board regarding two proposals from the Regulatory Committee: a) scope of practice and b) regulation of mobile clinics. Dr. Bailey & Dr. Jeffries-Morton discussed their concerns regarding mobile clinics. Ms. Yolanda Josey-Baker shared her opinions regarding scope of practice/ possibility of dental hygienists administering COVID vaccinations and blood alucose screenings.

OS-1020-14 COMMENTS FROM PUBLIC

Mr. Thomas Merritt introduced new Dental Practice, TEND, which has opened several branches in the District of Columbia.





BOARD OF DENTISTRY

Open Session Agenda October 20, 2021

CLOSING		
OS-1020-15	MOTION TO CLOSE	
	The Board member should move as follows:	
	"Mister Board Chair, I move that the Board close the Open Public session portion of the meeting and move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the following purposes: to discuss disciplinary matters pursuant to § 2-575(b)(9); to seek the advice of counsel to the board, to preserve the attorney-client privilege, or to approve settlement agreements pursuant to § 2-575(b)(4); and to plan, discuss, or hear reports concerning ongoing or planned investigations pursuant to § 2-575(b)(14)."	
	Motion: The Board voted to close the Open Session Meeting Moved by: Iris Jeffries-Morton Motion Passed Unanimously	
	ROLL CALL VOTE	
	The Board voted unanimously.	
	This concludes the Public Open Session of the meeting. The Board will now move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the reasons set forth in the motion.	

This ends the Open Session Agenda, next meeting is scheduled for November 17, 2021.

The meeting adjourned at 10:22am

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

BOARD OF DENTISTRY
AUTHORITY FOR GUIDANCE

October 20, 2021 DATE OF POLICY

21-003 POLICY NO.

POLICY STATEMENT

TEMPORARY WAIVER OF DISTRICT OF COLUMBIA DENTAL LAW EXAMINATION AS A REQUIREMENT FOR DENTAL LICENSURE

Subsection 4205.1 of Title 17 of the District of Columbia Municipal Regulations (DCMR) requires an applicant for a dentist license to obtain a passing score on the District of Columbia Dental Law Examination to be eligible for licensure.

The District of Columbia Dental Law Examination consists of questions on the District's laws and regulations pertaining to dentistry and dental hygiene. The District of Columbia Dental Law Examination is currently being updated to reflect changes in the District's laws and regulations.

To ensure that applicants are aware of and tested on the current laws and regulations, the, the District of Columbia Board of Dentistry ("Board") has adopted the following policy.

Effective, October 20, 2021, the Board is temporarily waiving the District of Columbia Dental Law Examination requirement set forth in Subsection 4205.1 until the newly revised District of Columbia Dental Law Examination is implemented.

BOARD OF DENTISTRY
AUTHORITY FOR GUIDANCE

October 20, 2021 DATE OF POLICY

<u>21-004</u> POLICY NO.

POLICY STATEMENT

TEMPORARY WAIVER OF DISTRICT OF COLUMBIA DENTAL LAW EXAMINATION AS A REQUIREMENT FOR DENTAL HYGIENE LICENSURE

Subsection 4305.1 of Title 17 of the District of Columbia Municipal Regulations (DCMR) requires an applicant for a dental hygienist license to obtain a passing score on the District of Columbia Dental Law Examination to be eligible for licensure.

The District of Columbia Dental Law Examination consists of questions on the District's laws and regulations pertaining to dentistry and dental hygiene. The District of Columbia Dental Law Examination is currently being updated to reflect changes in the District's laws and regulations.

To ensure that applicants are aware of and tested on the current laws and regulations, the, the District of Columbia Board of Dentistry ("Board") has adopted the following policy.

Effective, October 20, 2021, the Board is temporarily waiving the District of Columbia Dental Law Examination requirement set forth in Subsection 4305.1 until the newly revised District of Columbia Dental Law Examination is implemented.

BOARD OF DENTISTRY
AUTHORITY FOR GUIDANCE

October 20, 2021 DATE OF POLICY

21-001 POLICY NO.

POLICY STATEMENT

TEMPORARY WAIVER OF LIMITS ON USE OF APPROVED INTERNET CONTINUING EDUCATION COURSES FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF A DENTAL ASSISTANT REGISTRATION

Subsection 9007.8 of Title 17 of the District of Columbia Municipal Regulations (DCMR) requires completion of ten (10) hours of continuing education credit¹ to be eligible to renew a dental assistant registration that will expire on or after December 31, 2021. Subsection 9007.6, limits the number of approved internet continuing education courses that may be accepted in any renewal period, or for reinstatement or reactivation of a registration to five (5) credit hours.

In light of the continuing public emergency, and in recognition of the need for social distancing safety, the District of Columbia Board of Dentistry ("Board") has adopted the following policy pertaining to the continuing education requirements for dental assistants in the District of Columbia.

Effective, October 20, 2021, the Board has waived the limitations on the use of approved internet continuing education courses set forth in Subsection 9007.6. For the duration of the public emergency, an applicant for renewal, reactivation, or reinstatement of a dental assistant registration may satisfy all of the applicant's continuing education requirements through approved internet continuing education courses.

¹ Have completed ten (10) hours of credit within the two-year (2) period preceding the date the registration expires, which shall include at least:

⁽¹⁾ Current certification of having completed two (2) hours in basic life support ("BLS certification");

⁽²⁾ Two (2) hours of infection control in approved continuing education programs;

⁽³⁾ One (1) hour of ethics in an approved continuing education programs;

⁽⁴⁾ Two (2) hours of continuing education on cultural competency or specialized clinical training 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 Two (2) hours of continuing education on cultural competency or specialized clinical training 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 District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.10(b)(5)); and

⁽⁵⁾ At least ten percent (10%) of the total required continuing education shall be in the subjects determined by the Director as public health priorities of the District every five (5) years or less frequently, as deemed appropriate by the Director, with notice of the subject matter published in the *D.C. Register*. The Board shall disseminate the identified subjects to its licensees when determined by the Director via electronic communication and through publication on its website;

BOARD OF DENTISTRY AUTHORITY FOR GUIDANCE October 20, 2021
DATE OF POLICY

21-002 POLICY NO.

POLICY STATEMENT

TEMPORARY WAIVER OF LIMITS ON USE OF APPROVED INTERNET CONTINUING EDUCATION COURSES FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF A DENTAL TEACHER'S LICENSE OR DENTAL HYGIENE TEACHER'S LICENSE

Subsection 9211.4 of Title 17 of the District of Columbia Municipal Regulations (DCMR) requires completion of thirty (30) hours of continuing education credit to be eligible to renew a dental teaching license that will expire on or after December 31, 2021. With additional requirements for controlled substance prescribers.

Subsection 9211.6 of Title 17 of the District of Columbia Municipal Regulations (DCMR) requires completion of twenty (20) hours of continuing education credit to be eligible to renew a dental hygiene teaching license that will expire on or after December 31, 2021.

Subsection 9211.8, limits the number of approved internet continuing education courses that may be accepted in any renewal period, or for reinstatement or reactivation of a license to fifty percent (50%) of the applicant's total continuing education requirements.

In light of the continuing public emergency, and in recognition of the need for social distancing safety, the District of Columbia Board of Dentistry ("Board") has adopted the following policy pertaining to the continuing education requirements for holders of teacher's licenses in the District of Columbia.

Effective, October 20, 2021, the Board has waived the limitations on the use of approved internet continuing education courses set forth in Subsection 9211.8. For the duration of the public emergency, an applicant for renewal, reactivation, or reinstatement of a dental teacher's license or dental hygiene teacher's license may satisfy all of the applicant's continuing education requirements through approved internet continuing education courses.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 5(a) of the Health-Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-504(a) (2012 Repl. & 2019 Supp.)), as amended by the Health-Care Reporting Amendment Act of 2020, effective June 24, 2020 (D.C. Law 23-116, 67 DCR 8977; D.C. Official Code §§ 44-508, 509) ("Amendment"), and in accordance with Mayor's Order 98-137, dated August 20, 1998, hereby gives notice of the adoption of a new Chapter 25, entitled "Health Professional Reporting Requirements", to Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR) and a new Section 3610 (Health Professional and Health Employer Reporting Infractions) to Chapter 36 (Department of Health (DOH) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the DCMR.

The adoption of Chapter 25 is necessary to implement the Amendment which, among other things, requires all licensed, registered or certified health professionals and all employers of licensed, certified or registered health professionals to report certain disciplinary or other actions to the respective authorities within specified timeframes. This reporting requirement is necessary so that a health professional whose employment is terminated cannot simply be rehired by another employer without the respective Board or other employers being aware of potential safety issues. While there had been a reporting requirement previously for employers of physicians, there were no listed enforcement mechanisms, which made enforcement of non-licensed health care employers difficult. The Amendment also creates a reporting requirement for all licensed, registered or certified health professionals, a requirement that previously was limited to licensed physicians.

The Proposed Rulemaking was published in the *D.C. Register* on July 23, 2021, at 68 DCR 007257. No comments were received and no changes have been made to the proposed rulemaking. This rulemaking was adopted as final on September 29, 2021 and shall become effective upon publication in the *District of Columbia Register*.

Chapter 25, HEALTH PROFESSIONAL REPORTING REQUIREMENTS, of Subtitle B, PUBLIC HEALTH AND MEDICINE, of Title 22 DCMR, HEALTH, is added to read as follows:

2500 GENERAL PROVISIONS

- This chapter requires any health professional, and any employer of a health professional, in the District of Columbia to timely report certain actions taken by or against the health professional to the board, commission or authority ("authority") responsible for licensing, registering, or certifying the health professional.
- These reporting requirements will ensure that the appropriate authority is notified when a health professional has certain actions taken against him or her as a result of his or her actions. The appropriate authority is authorized to take necessary

action to ensure the health professional does not engage in unsafe practices which may endanger members of the public.

Failure to comply with the reporting requirements in this chapter may lead to disciplinary actions as outlined below.

2501 REPORTING REQUIREMENTS FOR HEALTH PROFESSIONALS

- Health professionals are required to submit a report to the board, commission or authority responsible for licensing, registering or certifying the heath professional within ten (10) business days of any of the following occurrences:
 - (a) The health professional obtains knowledge that a health care licensing authority of another state has taken disciplinary action against him or her; or
 - (b) The health care professional has been:
 - (i) Named in a malpractice suit and received notice of a judgment against him or her in that suit; or
 - (ii) Convicted of a crime; or
 - (iii) A party to a settlement, whether or not confidential, stemming from a malpractice claim to be paid by the health professional, an insurer, or other entity on behalf of the health professional; or
 - (c) The health professional's employer has:
 - (i) For reasons related to the health professional's clinical practice or employment standards:
 - a. Reduced, suspended, revoked, not renewed the health professional's employment or staff membership; or
 - b. Involuntarily terminated or restricted the health professional's employment or staff membership; or
 - (ii) Asked the health professional to resign because his or her conduct has been determined to violate D.C. Official Code § 3-1205.14 including professional incompetence; or
 - (d) The health professional has voluntarily resigned or been asked by his or her employer to resign, while being investigated by the employer for conduct in violation of D.C. Official Code § 3-1205.14, including professional incompetence.

2502 REPORTING REQUIREMENTS FOR EMPLOYERS

- An employer of a licensed, certified or registered health professional shall submit a report notifying the board, commission or authority within ten (10) business days after taking any of the following actions:
 - (a) For reasons related to the health professional's clinical practice or employment standards:
 - (i) Reduced, suspended, revoked or not renewed the health professional's clinical privileges; or
 - (ii) Involuntarily terminated or restricted the health professional's employment or staff membership; or
 - (b) Asked the health professional to resign because his or her conduct has been determined to have committed a violation of D.C. Official Code § 3-1205.14, including professional incompetence; or
 - (c) The health professional has voluntarily resigned, or been asked by the employer to resign, while being investigated by the employer for conduct in violation of D.C. Official Code § 3-1205.14, including professional incompetence.
- If the employer has temporarily suspended or required the relinquishment of privileges of a health professional while he or she enters and successfully completes a prescribed program of education or rehabilitation, no report needs to be made. However, if there is no reasonable expectation that the health professional will enter and successfully complete a prescribed program of education or rehabilitation, the employer shall submit a report immediately in accordance with Section 2503.

2503 REPORTS

- Health professionals and employers are required to submit a report to the appropriate board, commission, or authority within ten (10) business days of any of the occurrences specified in §§ 2501 or 2502.
- Reports shall be submitted by registered or certified mail, return receipt requested, or by courier service, commercial carrier, personal service, or via e-mail to a secure e-mail address(es) identified by the Department.
- 2503.3 Reports shall include all relevant information including any investigative reports, witness statements, medical records and correspondence.
- 2503.4 Records reported and obtained as a result of this requirement shall remain confidential and not be disclosed except as otherwise authorized or required by law. Submission of records does not constitute a waiver of confidentiality.

For any report submitted pursuant to the entry of a confidential settlement, the health professional shall not include any details required by the settlement to be kept confidential.

2504 IMMUNITY

- The employer, or employee of the employer, who acting in good faith makes a report pursuant to this chapter, shall have immunity from administrative, civil, or criminal liability that might otherwise be incurred or imposed with respect to making the report. The same immunity shall extend to participation in any administrative or judicial proceeding involving the report.
- In all administrative, civil, or criminal proceedings resulting from the report, there shall be a rebuttable presumption that the maker of the report acted in good faith.

2505 ENFORCEMENT

- Failure of either the employer or the health professional to submit a required report in accordance with this chapter to notify the proper authorities of actions identified in this chapter may result in the imposition of fines.
- The Director or the appropriate board, commission or authority may issue a Notice of Infraction (NOI) to the employer or health professional imposing a civil fine whenever the Director or board, commission or authority has reasonable grounds to believe the employer or health professional is in violation of a requirement of this title.
- 2505.3 An NOI shall be in writing in a form prescribed by the Director and shall include:
 - (a) The name of the health provider or employer ("respondent");
 - (b) A citation or reference to the provision of this title that the respondent has violated;
 - (c) The alleged event that occurred that was required to be reported;
 - (d) The amount of the civil fine applicable to the infraction;
 - (e) A statement that:
 - (1) The fine must be paid within fifteen (15) calendar days of the date that the NOI has been served on the respondent;
 - (2) The respondent has the right to request a hearing before the Office of Administrative Hearings ("OAH"); and
 - (3) If the respondent fails to pay the fine or request a hearing within fifteen (15) calendar days of the date the NOI is served on the

respondent, a penalty equal to the amount of the fine may be imposed; and

- (f) Any other information the Director may require.
- Each NOI shall be served and filed in the manner prescribed by 16 DCMR § 3102.
- In response to an NOI, a respondent shall file a written answer with OAH within fifteen (15) calendar days of the date the NOI is served on the respondent. The answer shall:
 - (a) Admit the infraction and pay the fine;
 - (b) Admit the infraction with an explanation, and provide any supporting documentation; or
 - (c) Deny the infraction and request a hearing.
- 2505.6 If a respondent admits an infraction in the NOI, the respondent shall include payment of the fine with the answer. If respondent pays the stated fine but fails to indicate a specific answer, the respondent shall be deemed to have admitted the infraction.
- 2505.7 If a respondent submits a written answer to OAH but does not pay the stated fine and fails to state an answer as required by § 2505.4, the respondent shall be deemed to have denied the infraction.
- 2505.8 If the respondent admits an infraction with an explanation, the respondent shall state in the written answer whether the respondent requests a hearing on the papers or an in-person hearing. The OAH may hold an in-person hearing in its sole discretion.
- 2505.9 If a respondent denies an infraction, OAH may schedule an in-person hearing in accordance with its rules.
- 2505.10 If a respondent does not answer the NOI within fifteen (15) calendar days:
 - (a) OAH shall issue a default order; and
 - (b) A civil penalty equal to double the amount of the fine imposed by the NOI shall be imposed by OAH in the default order.
- 2505.11 If a respondent fails to answer an NOI in a timely manner, the respondent shall not have a right to a hearing on the NOI, unless the respondent shows good cause for the failure to answer the NOI in a timely manner.
- 2505.12 If a respondent challenges an NOI as defective on its face, an administrative law judge ("ALJ") within OAH may review the NOI prior to a hearing and, if the ALJ

determines that the NOI is defective on its face, dismiss the NOI. If the ALJ does not dismiss the NOI, the respondent shall be deemed to have denied the infraction and the OAH shall schedule a hearing. The respondent's evidence presented in support of the denial may include evidence on whether the NOI is defective.

- In a proceeding challenging the imposition of a fine for failure to comply with these reporting requirements, the employer or the health professional has the burden of proving that the report was sent in accordance with the requirements of this chapter if the board, commission or authority states that it did not receive the report.
- 2505.14 A civil penalty, including a fine, may be downwardly modified by OAH if:
 - (a) The downward modification is not inconsistent with the provision of this title or other applicable law that is the basis for the penalty;
 - (b) The Director is provided with an opportunity to present to OAH its opinion on a proposed downward modification or fine reduction; and
 - (c) The downward modification is based on a consideration of all relevant mitigating and aggravating factors.
- 2505.15 The schedule of fines for failure to submit a required report is:

(a) For the first violation: \$2,500;

(b) For the second violation: \$5,000;

(c) For the third and subsequent violations: \$ 10,000.

2599 **DEFINITIONS**

As used in this chapter, the following terms have the meaning ascribed:

Board - the Board of Audiology and Speech-Language Pathology, the Board of Chiropractic, the Board of Dentistry, the Board of Dietetics and Nutrition, the Board of Marriage and Family Therapy, the Board of Medicine, the Board of Nursing, the Board of Long-Term Care Administration, the Board of Occupational Therapy, the Board of Optometry, the Board of Pharmacy, the Board of Physical Therapy, the Board of Podiatry, the Board of Professional Counseling, the Board of Psychology, the Board of Respiratory Care, the Board of Social Work, or the Board of Veterinary Medicine, all as established by the Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 et seq.) as amended.

Department – the Department of Health or DC Health.

Director – the Director of the District of Columbia Department of Health.

- Employer any entity, including a facility, agency, assisted living residence, private office, health care provider, or group home in the District of Columbia that employs health care professionals or utilizes the services of a health professional who is contracted with a third party or is self-employed, including those engaged in the practice of pharmacy. This definition does not include the private person who, for his or her own health needs, has contracted directly with a health professional.
- **Health professional** a person licensed, registered, certified, or permitted to practice a health occupation regulated by a licensing board, commission or authority in the District of Columbia.
- **Professional incompetence** a health professional's unfitness to continue in the health professional's profession, or to provide one or more services ordinarily provided as part of the profession, as demonstrated by:
 - (a) A lack of knowledge, skill or judgment; or
 - (b) Disregard for the welfare of a patient or client.

A new Section 3610, HEALTH PROFESSIONAL AND HEALTH EMPLOYER REPORTING INFRACTIONS, is added to Chapter 36, DEPARTMENT OF HEALTH (DOH) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, to read as follows:

3610 HEALTH PROFESSIONAL AND HEALTH EMPLOYER REPORTING INFRACTIONS

- Violation of any of the following provisions shall result in a \$2,500 fine for the first offense:
 - (a) 22-B DCMR § 2501 (failure of a health professional to report disciplinary action, legal action or employment action against him or her); and
 - (b) 22-B DCMR § 2502 (failure of an employer to report an action taken against a health professional).
- Violation of any of the following provisions shall result in a \$5,000 fine for the second offense:
 - (a) 22-B DCMR § 2501 (failure of a health professional to report disciplinary action, legal action or employment action against him or her); and
 - (b) 22-B DCMR § 2502 (failure of an employer to report an action taken against a health professional).

- Violation of any of the following provisions shall result in a \$10,000 fine for the third offense:
 - (a) 22-B DCMR § 2501 (failure of a health professional to report disciplinary action, legal action or employment action against him or her); and
 - (b) 22-B DCMR § 2502 (failure of an employer to report an action taken against a health professional).
- Fines issued under this chapter shall not preclude any other criminal or civil penalty or enforcement action provided by District law.
- 3610.5 For purposes of enforcement of this Chapter pursuant to Chapter 31 of this Title, the term "Director" shall mean the Director of the District of Columbia Department of Health or his or her designee.

Fw: ABRA: Seeking DOH Comment on DC Code sec. 7-1671.07 and 22-C DCMR sec. 806

Walker, Ericka (DOH) <ericka.walker@dc.gov>

Tue 10/12/2021 3:39 PM

To: Mbanefo, Kathleen (DOH) <kathleen.mbanefo@dc.gov>

Cc: Walker, Ericka (DOH) <ericka.walker@dc.gov>

Add to Open Session Agenda

Ericka L. Walker, MSW

Executive Director

Health Regulation and Licensing Administration

Allied and Behavioral Health Boards

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From: Husband, Phillip (DOH) <phillip.husband@dc.gov>

Sent: Monday, September 20, 2021 10:06 AM

To: Lewis, Sharon (DOH) <sharon.lewis@dc.gov>; Meyers, Frank (DOH) <frank.meyers@dc.gov>; Nixon, Aisha (DOH) <aisha.nixon@dc.gov>; Walker, Ericka (DOH) <ericka.walker@dc.gov>; Williams, Carla (DOH) <Carla.Williams@dc.gov>; Fenzel, Suzanne (DOH) <suzanne.fenzel3@dc.gov>; Vongjaroenrat, Panravee (DOH) <panravee.vongjaroenrat@dc.gov>

Cc: Nesbitt, LaQuandra S. (DOH) <laquandra.nesbitt@dc.gov>; Wills, Charlene (DOH) <charlene.wills@dc.gov> Subject: FW: ABRA: Seeking DOH Comment on DC Code sec. 7-1671.07 and 22-C DCMR sec. 806

ABRA emailed me the following request: "ABRA is in the process of reviewing the medical cannabis laws and considering amendments to the related statutes and regulations. As part of our review, we are looking at the laws and regulations that require ABRA to notify the Boards of Medicine, Nursing, and Dentistry when authorized practitioners write 250 or more medical cannabis recommendations within a 1-year period. We were interested in hearing any comments DOH or the relevant Boards have regarding the 250 recommendation threshold. In particular, does DOH believe the threshold should remain the same, be lowered, raised, abolished, etc.?" See below for more detail.

I have emailed ABRA that I will coordinate responses from DC Health and the Boards of Medicine, Nursing, and Dentistry. I asked ABRA for its timeline but do not have a response yet.

I am available to discuss. Stay safe.

Phillip L. Husband

Pronouns: He/Him/His General Counsel Office of the General Counsel

District of Columbia Department of Health

Phillip.Husband@dc.gov

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From: Berman, Jonathan (ABRA) < jonathan.berman@dc.gov>

Sent: Friday, September 17, 2021 2:51 PM

To: Husband, Phillip (DOH) <phillip.husband@dc.gov>Cc: Jenkins, Martha (ABRA) <Martha.Jenkins@dc.gov>

Subject: ABRA: Seeking DOH Comment on DC Code sec. 7-1671.07 and 22-C DCMR sec. 806

Dear GC Husband:

ABRA is in the process of reviewing the medical cannabis laws and considering amendments to the related statutes and regulations. As part of our review, we are looking at the laws and regulations that require ABRA to notify the Boards of Medicine, Nursing, and Dentistry when authorized practitioners write 250 or more medical cannabis recommendations within a 1-year period. We were interested in hearing any comments DOH or the relevant Boards have regarding the 250 recommendation threshold. In particular, does DOH believe the threshold should remain the same, be lowered, raised, abolished, etc.?

Is your office available to coordinate obtaining comments from the appropriate parts of DOH? I have attached the relevant laws and regulations below my signature for your reference. Thank you for your assistance in this matter.

Sincerely,



JONATHAN BERMAN · ASSISTANT GENERAL COUNSEL

D: 202.442.4448 | E: jonathan.berman@dc.gov

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

2000 14th Street NW, Suite 400 South, Washington DC 20009

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§ 7-1671.04. Recommending authorized practitioner; protections.

Currentness

(a) An authorized practitioner may recommend the use of medical marijuana to a qualifying patient if the authorized practitioner:

- (1) Is in a bona fide relationship with the qualifying patient; and
- (2) Makes the recommendation based upon the authorized practitioner's assessment of the qualifying patient's medical or dental history, current medical or dental condition, and a review of other approved medications and treatments that might provide the qualifying patient with relief from a qualifying medical or dental condition or the side effects of a qualifying medical or dental treatment.
- (b)(1) An authorized practitioner's recommendation that a qualifying patient may use medical marijuana shall be signed by the authorized practitioner's recommendation and include:
- (A) The authorized practitioner's board-issued license number; and
- (B) A statement that the use of medical marijuana is necessary for the treatment of a qualifying medical or dental condition or the side effects of a qualifying medical or dental treatment.
- (2) An authorized practitioner's recommendation shall be valid only if it is written on a form prescribed by ABRA.
- (c) Except as provided in § 7-1671.07, a physician shall not be subject to any penalty, including arrest, prosecution, or disciplinary proceeding, or denial of any right or privilege, for advising a qualifying patient about the use of medical marijuana or recommending the use of medical marijuana to a qualifying patient pursuant to this chapter and the rules issued pursuant to § 7-1671.13.
- (d) An authorized practitioner recommending the use of medical marijuana by a qualifying patient shall not have a professional office located at a dispensary, cultivation center, or testing laboratory or receive financial compensation from a dispensary, cultivation center, or testing laboratory, or a director, officer, member, incorporator, agent, or employee of a dispensary, cultivation center, or testing laboratory.

D.C. Code Ann. § 7-1671.04 (West)

§ 7-1671.07. Health Occupations Boards review of medical marijuana authorized practitioner recommendations.

Currentness

- (a) The Boards of Medicine, Nursing, and Dentistry shall have the authority to review and audit the written authorized practitioner recommendations submitted to ABRA as part of the registration process and shall have the authority to discipline authorized practitioners under their licensing authority who act outside of the scope of this chapter.
- (b) The relevant licensing board shall audit the recommendations submitted by any authorized practitioner who provides more than 250 recommendations in any 12-month period to patients for the use of medical marijuana.
- (c) Submitting a false statement regarding a qualifying patient's eligibility to participate in the Program on the form developed pursuant to § 7-1761.04(b)(2) shall be grounds for the revocation, suspension, or denial of an authorized practitioner's license, or the imposition of a civil fine pursuant to § 3-1205.14(c), or both, at the licensing board's discretion.

D.C. Code Ann. § 7-1671.07 (West)

806. BOARD AUDITS AND REVIEW OF RECOMMENDATIONS

Currentness

<Emergency action effective June 23, 2021.>

806.1 The Board shall timely notify the Board of Medicine whenever an authorized practitioner provides more than two hundred fifty (250) recommendations in any twelve (12) -month period to patients for the use of medical marijuana.

806.2 The Board shall timely notify the Board of Nursing whenever an advance practice registered nurse provides more than two hundred fifty (250) recommendations in any twelve (12)-month period to patients for the use of medical marijuana.

806.3 The Board shall timely notify the Board of Dentistry whenever a dentist provides more than two hundred fifty (250) recommendations in any twelve (12)-month period to patients for the use of medical marijuana.

806.4 The Boards of Medicine, Nursing, and Dentistry shall audit and review the recommendations submitted by the authorized practitioners under its purview who provide more than two hundred fifty (250) recommendations in a twelve (12)-month period.

D.C. Mun. Regs. tit. 22-C, § 806

Filing Notice

ABRA has a created a dedicated email account for the receipt of all electronic documents that concern legal and adjudication matters before the Alcoholic Beverage Control Board. Please send your Board correspondence, pleadings, filings, motions, Settlement Agreements, Security Plans, etc. to the following address: abra.legal@dc.gov

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District Addiction Consultation Service

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Provides support to primary care and specialty prescribers across the District of Columbia in the identification and treatment of Substance Use Disorders and chronic pain management.





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Program launched on July 1, 2021

- Funding for DACS is provided by The District of Columbia Government, DC Health, Health Regulation and Licensing Administration (HRLA), Pharmaceutical Control Division (PCD).
- DACS is administered by the University of Maryland, School of Medicine.



DACS Consultants



Eric Weintraub, MD
DACS Principal Investigator
Division Head, Alcohol and Drug
Abuse
Acting Division Head,
Department of Psychiatry



George Kolodner, MD
Clinical Professor of Psychiatry,
Georgetown University
Clinical Professor of Psychiatry,
University of Maryland School of
Medicine



Jasleen Salwan, MD, MPH Physician, Montgomery Family Medicine Associates



Devang Gandhi, MD, FRCPsyc, DFASAM Adjunct Associate Professor, University of Maryland School of Medicine



All Services are FREE and include:

- Phone consultation for clinical questions
- Education and training opportunities related to substance use disorders and chronic pain management
- Assistance with addiction and behavioral health resources and referrals
- Outreach



Consultation Process



Prescriber calls 1-866-337-DACS Call is answered by a behavioral health consultant.

Addiction Specialists are available to answer prescriber's questions.

Within 24 hours prescriber receives a summary of their consultation along with relevant resources, referrals, and tools.





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All primary care and specialty providers across the D.C.

- Physicians
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- And so on...



Questions?

1-866-337-DACS (3227)

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