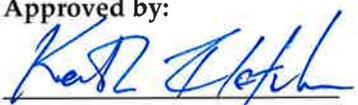
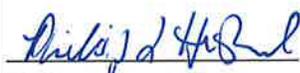


District of Columbia Department of Health  <h2>Rulemaking</h2>		<b>PROCEDURE 271.000</b> Implementing Office: Office of the Director/Office of Government Relations Training Required: Yes Originally Issued: JAN 14 2020 Revised/Reviewed:
<b>Approved by:</b>  LaQuandra S. Nesbitt/MD, MPH; Agency Director	<b>Review by Legal Counsel:</b>  Phillip Husband, Esq.; General Counsel	<b>Effective Date:</b> JAN 14 2020  <b>Valid Through Date:</b> JAN 14 2023

<b>I. Authority</b>	Reorganization Plan No. 4 of 1996; Mayor's Order 1997-42.
<b>II. Reason for the Policy</b>	Rulemaking, or the drafting and enactment of regulations, is an integral part of how the executive branch of DC government implements and enforces statutes. DC Health may need to draft regulations, and submit them to the Executive Office of the Mayor (EOM) for approval, when new legislation is enacted. Regulations can also fall out of date for a range of reasons, necessitating a revision. A protocol is necessary to guide DC Health programs in drafting content, and coordinating with both the DC Health Office of the General Counsel (OGC) and the DC Health Office of Government Relations (OGR) to ensure rules are drafted correctly, legally sufficient, and receive the needed intra-agency and inter-agency approvals.
<b>III. Applicability</b>	This SOP shall apply to all DC Health employees, contractors, interns, and summer youth employees. These individuals are referred to collectively herein as "employees" or "DC Health employees."
<b>IV. Policy Statement</b>	<p>The rulemaking process is jointly overseen by OGC and OGR. The General Counsel is the accountable manager over all tasks assigned to OGC. The Director of Government Relations is the accountable manager over all tasks assigned to OGR.</p> <p>The Program Manager of the implementing program is responsible for drafting regulations, or assembling and directing a team to draft the regulations. If the legislation creates a new mandate for</p>

DC Health, and does not specify which administration or program that will implement the law, the Director will designate an implementing administration and program.

For rulemaking applicable to a health professional licensing board, the Executive Director of that board shall act as the Program Manager.

The General Counsel will assign an OGC attorney to work with the Program Manager/drafting team. The OGC attorney will provide technical assistance to the Program Manager in drafting regulations.

The OGC attorney is responsible for reviewing the draft, and assembling the rulemaking package. This includes, but is not limited to, ensuring that the draft regulatory language:

1. aligns with the corresponding statute;
2. does not inadvertently create legal exposure for the Department; and
3. is correctly formatted and organized with the correct numbering convention.

The DC Health General Counsel will sign any draft regulations, declaring them legally sufficient, before routed to the Director for approval. The process of obtaining approvals outside of DC Health may only begin once the Director has approved the draft. Draft rules may only progress to external approvals with the Director's authorization. This is the case even when the DC Health Director is not the official promulgator.

Once the Director has approved draft regulations, OGC will add the draft to its internal log. The General Counsel will designate an employee within OGC to maintain the log.

OGR is responsible for routing the Director-approved draft to the Office of Policy and Legal Affairs (OPLA) and the Office of the Deputy Mayor for Health and Human Services (DMHHS), both within EOM, and coordinating responses to follow-up questions from both offices.

Once OPLA and DMHHS approvals have been obtained, OGC is responsible for coordinating with the District of Columbia Office of

	<p>the Attorney General (OAG) to obtain a Certification of Legal Sufficiency. Only OGC personnel may communicate directly with OAG. Other employees may do so in the presence of an OGC representative.</p> <p>After obtaining the Certification of Legal Sufficiency from OAG, OGC will route the complete rulemaking package to OGR to send to EOM for the required approvals across offices within EOM and, subsequently, publication in the DC Register. OGR is responsible for coordinating responses to any follow-up questions from EOM during this process.</p> <p>Any employee in violation of any part of this SOP may be subject to commensurate disciplinary action.</p>
<p><b>V. Definitions &amp; Acronyms</b></p>	<p><b>DMHHS-</b> Office of the Deputy Mayor for Health and Human Services</p> <p><b>EOM-</b> Executive Office of the Mayor</p> <p><b>OAG-</b> District of Columbia Office of the Attorney General</p> <p><b>OGC-</b> DC Health Office of the General Counsel</p> <p><b>OGR-</b> DC Health Office of Government Relations</p> <p><b>OPLA-</b> Office of Policy and Legal Affairs within the Executive Office of the Mayor.</p> <p><b>Regulation-</b> A general statement issued by an agency, board, or commission that has the force and effect of law. For purposes of DC Health, the whole or any part of any Mayor's or agency's statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Mayor or of any agency.</p> <p><b>Rulemaking-</b> The Mayor's or agency's process for the formulation, amendment, or repeal of a rule.</p>

<p><b>VI. Procedures</b></p>	<p><b>Procedure A: Drafting and Internal Approvals</b></p> <ol style="list-style-type: none"> <li>1. The General Counsel will designate an attorney to collaborate on the project.</li> <li>2. The Program Manager will draft the content, or direct a team drafting content.</li> <li>3. The OGC attorney will provide technical assistance as needed to the Program Manager/drafting team.</li> <li>4. The OGC attorney will review the finished draft and assemble the rulemaking package (see list above), coordinating revisions with the Program Manager as applicable.</li> <li>5. The General Counsel will review the rulemaking package for legal sufficiency, noting any necessary revisions to the Program Manager and OGC attorney.</li> <li>6. The General Counsel will route the rulemaking package to the Director upon declaring it legally sufficient.</li> <li>7. The Director will review the rulemaking package, directing any revision requests to the General Counsel and Program Manager.</li> <li>8. When the rulemaking package has been amended to the Director’s satisfaction (if applicable), s/he will authorize it to progress to external approvals.</li> <li>9. The General Counsel’s designee will log the draft in the OGC log.</li> </ol> <p><b>Procedure B: External Approvals</b></p> <ol style="list-style-type: none"> <li>1. The Director of Government Relations will forward the rulemaking package to OPLA and DMHHS.</li> <li>2. The Director of Government Relations will coordinate responses to any follow-up questions received from OPLA or DMHHS.</li> </ol>
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	<ol style="list-style-type: none"> <li>3. Upon receipt of approval from OPLA and DMHHS, the General Counsel will forward the rulemaking package to OAG.</li> <li>4. Upon receipt of the Certification of Legal Sufficiency from OAG, the General Counsel will forward it to OGR who will forward the rulemaking package to EOM for review and approval.</li> <li>5. OGC will forward the final draft regulations to the DC Register.</li> </ol>
<b>VII. Contacts</b>	<p>General Counsel</p> <p>Supervisory Legislative Specialist</p>
<b>VIII. Related Documents, Forms and Tools</b>	<p>None</p>