

## DEPARTMENT OF HEALTH

FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 10(e)(1) 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 § 44-509(e)(1)), Mayor's Order 98-137, dated August 20, 1998, section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42, D.C. Official Code § 2-1801.04), Mayor's Order 99-68, dated April 28, 1999, and Reorganization Plan No. 4 of 1996, hereby gives notice of the adoption of the following amendments to Chapter 36 (Civil Infractions) of Title 16 of the District of Columbia Municipal Regulations (DCMR) upon completion of the sixty (60) day Council period of review if the Council does not act earlier to adopt a resolution approving the rules. The amendments prescribe civil infraction fines for violations of the law governing the licensing of hospitals. The proposed rulemaking was published for comment in the D.C. Register on January 2, 2009. No comments were received.

Chapter 36 (Civil Infractions) of Title 16 DCMR is amended by adding a new section 3606 and repealing the current section 3606 to read as follows:

**3606 LICENSING OF HOSPITALS**

3606.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR 2002 (operating a hospital without a license);
- (b) 22 DCMR 2002.17 (failure to meet the minimum requirements for insurance);
- (c) 22 DCMR 2002.18 (failure to comply with Certificate of Need requirements);
- (d) 22 DCMR 2003 (failure to comply with certificate requirements, including Certificate of Occupancy and fire approval);
- (e) 22 DCMR 2006.1 (failure to obtain a permit before moving the hospital or part of the hospital from the licensed premises);
- (f) 22 DCMR 2007.2 (failure to permit the Director entry to investigate complaints);
- (g) 22 DCMR 2014.1 (failure to have a governing body that is authorized and responsible for the direction and policy of the hospital);

- (h) 22 DCMR 2015.1 (failure to have an administrator who is responsible for planning, organizing and directing the day to day operation of the hospital);
- (i) 22 DCMR 2015.2 (failure of the administrator to be present in the hospital forty (40) hours per week during regular business hours and failure of the administrator to be responsible for the day to day operation twenty-four (24) hours a day seven (7) days of a week);
- (j) 22 DCMR 2016.1 (failure to maintain a sufficient number of staff with appropriate qualifications, skills and training twenty-four (24) hours a day);
- (k) 22 DCMR 2017 (failure to comply with requirements on health examinations for those involved in direct patient care, except that sections 2017.5 and 2017.8 are class 2 offenses);
- (l) 22 DCMR 2020 (failure to comply with requirements on availability of physicians);
- (m) 22 DCMR 2024 (failure to comply with requirements on patient care and treatment);
- (n) 22 DCMR 2027 (failure to comply with requirements on restraint and seclusion of patients);
- (o) Section 6(c) 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 § 44-505(c)) (failure to allow authorized government officials to enter premises to conduct an inspection); and
- (p) Section 6(d)(1) 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 § 44-505(d)(1)) (failure to notify the Mayor of the loss of accreditation or federal certification within five (5) calendar days of the loss).

3606.2

Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR 2000.2 (failure to comply with requirements of Medicare, the Joint Commission, medical, nursing and public health standards);

- (b) 22 DCMR 2000.3 (failure to deliver services in compliance with the laws of the District when the contract entity delivering the services is not licensed in the District);
- (c) 22 DCMR 2002.2 (failure to submit license application timely, to submit the appropriate license fee, to state the offered services in the application or the number of beds provided or other information required);
- (d) 22 DCMR 2002.4 (failure to list certificate approvals on license application);
- (e) 22 DCMR 2002.5 (failure to submit license renewal application no later than sixty (60) days prior to expiration date and to submit license renewal fee);
- (f) 22 DCMR 2002.6 (failure to pay a late application fee);
- (g) 22 DCMR 2002.8 (failure to inform the Director of a change in operation within thirty (30) days after the change);
- (h) 22 DCMR 2002.9 (failure to return a license to the Director when a license is suspended, revoked, not renewed, forfeited or when the operation voluntarily ceases operation);
- (i) 22 DCMR 2002.10 (transfer of a license to a person or premises not named in the license application);
- (j) 22 DCMR 2007.3 (failure to submit a plan of correction no later than ten (10) days after receipt of a complaint investigation report);
- (k) 22 DCMR 2007.7 (failure to correct deficiencies within thirty (30) days of receipt of the complaint investigation report);
- (l) 22 DCMR 2014.2 (failure of the governing body to fulfill its responsibilities);
- (m) 22 DCMR 2015.3 (failure of the administrator to fulfill his or her responsibilities);
- (n) 22 DCMR 2016.2 (failure to ensure and maintain evidence of staff and contract staff licensure, registration, certification or other credentials and to have procedures to verify current status);

- (o) 22 DCMR 2016.3 (failure to report the termination of a licensed professional to the applicable professional board when the termination is due to a job-related incident);
- (p) 22 DCMR 2017.5 (failure to maintain on file a report of each health examination of employees);
- (q) 22 DCMR 2017.8 (failure to maintain and make available for examination by the Department a copy of certification that a direct patient care employee who has been ill can return to work);
- (r) 22 DCMR 2018 (failure to comply with requirements on staff training);
- (s) 22DCMR 2019 (failure to comply with requirements on the responsibilities of medical staff);
- (t) 22 DCMR 2021 (failure to comply with requirements on the responsibilities of nursing staff);
- (u) 22 DCMR 2022 (failure to comply with requirements on patient rights);
- (v) 22 DCMR 2023 (failure to establish and implement a written process that promptly addresses grievances by patients and their representatives);
- (w) 22 DCMR 2025 (failure to comply with requirements on errors in provision and administration of medications);
- (x) 22 DCMR 2026 (failure to comply with requirements on separate patient care);
- (y) 22 DCMR 2028 (failure to comply with requirements on patient nutrition);
- (z) 22 DCMR 2029 (failure to comply with requirements on discharge planning);
- (aa) 22 DCMR 2030 (failure to comply with requirements on recordkeeping);
- (bb) 22 DCMR 2031 (failure to comply with requirements on physical plant standards);

- (cc) 22 DCMR 2032 (failure to comply with requirements on Medicare/Medicaid participation);
- (dd) 22 DCMR 2033 (failure to comply with provisions on prohibitions against sharing care and treatment areas);
- (ee) 22 DCMR 2034 (failure to comply with provisions on construction standards);
- (ff) 22 DCMR 2035 (failure to comply with requirements on maintaining a safe environment);
- (gg) 22 DCMR 2036 (failure to comply with requirements on maintaining building systems for the safety, comfort and well-being of patients);
- (hh) 22 DCMR 2037 (failure to comply with requirements on housekeeping and maintenance); and
- (ii) Section 8 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 § 44-507) (failure to comply with requirements on clinical privileges).

3606.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR 2002.3 (failure to provide enumerated information on license application);
- (b) 22 DCMR 2002.19 (failure to post the license in a conspicuous place at all times); and
- (c) 22 DCMR 2008.2 (failure to submit requisite information to the Director when requesting a variance).