

**DEPARTMENT OF HEALTH  
NOTICE OF PROPOSED RULEMAKING**

---

The Director of the Department of Health, pursuant to the authority set forth under section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendment to Chapter 40 of Title 17 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 clarify that individuals holding licenses, registrations, or certifications to practice a health occupation in the District of Columbia are required to practice under the same name in which their license was issued. This requirement is necessary in order to avoid causing confusion to the public concerning who is authorized to practice in the District, to aid the public in correctly identifying practitioners when submitting complaints to the Health Occupations Boards, and to aid the Boards in investigating complaints.

**The following rulemaking action is proposed:**

17 DCMR Chapter 40, HEALTH OCCUPATIONS: GENERAL RULES, is amended as follows:

**A new section 4016 is added to read as follows:**

**4016            DISPLAY AND USE OF NAME IN PROFESSIONAL PRACTICE**

4016.1            An individual holding a license, registration, or certification to practice a health occupation in the District of Columbia shall perform all professional practice in the District under the full name in which his or her license, registration, or certification was issued. This shall mean displaying the full name in which his or her license, registration, or certification was issued on all signage, stationery, and advertisements; and using this name in all oral and written communications with the public or his or her patients.

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 the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 49 of Title 17 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 amendment is to update the requirements and guidelines for licensure, supervision, and scope of practice for physician assistants.

**Chapter 49 (Physician Assistants) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended as follows:**

**The Table of Contents is amended to read as follows:**

4900 General Provisions  
4901 Term of License  
4902 Educational Requirements  
4903 Examination  
4904 [Reserved]  
4905 [Reserved]  
4906 Continuing Education Requirements  
4907 Approved Continuing Education Programs and Activities  
4908-4910 [Reserved]  
4911 Scope of Practice  
4912 Prescribing and Dispensing Drugs  
4913 [Reserved]  
4914 Supervision  
4915 Delegation Agreement  
4916 Supervising Physician  
4917 Duties of Advisory Committee on Physician Assistants  
4918 Title Protection  
4919 Disaster and Emergency Care  
4999 Definitions

**Section 4901 is amended to read as follows:**

**4901            TERM OF LICENSE**

4901.1            Subject to § 4901.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of December 31 of each even-numbered year.

- 4901.2 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birth date of the holder of the license, or other date established by the Director.
- 4901.3 A temporary license may be issued to an applicant who meets all qualifications for licensure, while awaiting the next scheduled meeting of the board and is subject to the criteria as follows:
- (a) The physician assistant has no pending disciplinary or criminal charges in any jurisdiction relating to the physician assistant's fitness to practice; and
  - (b) The supervising physician(s) is (are) licensed in good standing in the District of Columbia with no pending disciplinary or criminal charges in any jurisdiction relating to the physician's (physicians') fitness to practice.
- 4901.4 The time period for such temporary license shall not exceed six (6) months, at the end of which time the physician assistant must have obtained full licensure or must withdraw the request and immediately cease to perform the health care tasks specific to physician assistant practice.

**Section 4903.1 is amended to read as follows:**

- 4903.1 An applicant shall receive a passing score on the Physician Assistant National Certifying Examination (PANCE), an examination administered by the National Commission on Certification of Physician Assistants (the NCCPA examination).

**Section 4904 is deleted in its entirety and marked as reserved.**

**Section 4907.2 is amended to read as follows:**

- 4907.2 The Board may approve continuing medical education programs and activities for Category 1 credit that are as follows:
- (a) Sponsored, co-sponsored, or accredited by:
    - (1) The American Academy of Physician Assistants (AAPA);
    - (2) The Accreditation Council for Continuing Medical Education (ACCME);
    - (3) The American Osteopathic Council on Continuing Medical Education (AOACCME);

- (4) The American Academy of Family Physicians (AAFP); or
- (5) A state medical society; and
- (b) Designated:
  - (1) Category 1 by the AAPA;
  - (2) American Medical Association Physician's Recognition Award (AMA/PRA) Category 1 by the ACCME;
  - (3) Category 1 by the AOACCME; or
  - (4) Prescribed credit by the AAFP.

**Section 4907.3 is amended to read as follows:**

4907.3 A physician assistant may show proof of meeting the above continuing medical education requirements by providing evidence of current certification by the National Commission on Certification of Physician Assistants.

**Section 4907.4 is amended to read as follows:**

- 4907.4 The Board may approve continuing education programs and activities for Category 2 credit that are as follows:
- (a) Limited in content to the following:
    - (1) Public health administration;
    - (2) The basic medical sciences; or
    - (3) The discipline of clinical medicine; and
  - (b) Comprised of one of the following activities:
    - (1) Grand rounds;
    - (2) Teaching rounds;
    - (3) Seminars;
    - (4) Lectures;

- (5) Conferences;
- (6) Medical teaching;
- (7) Patient care review;
- (8) Publication or presentation of an article related to practice as a physician assistant;
- (9) Workshops;
- (10) Courses of instruction, including self-instruction;
- (11) Reading literature published primarily for readership by health care practitioners;
- (12) Teaching health professionals, as long as such teaching is not a major professional responsibility of a physician assistant; or
- (13) Written and practical examination, including self-assessment.

**A new section 4907.5 is added to read as follows:**

- 4907.5        An applicant shall have the burden of verifying whether a program or activity is approved by the Board pursuant to this section prior to attending the program or engaging in the activity.

**Section 4911 is deleted in its entirety and amended to read as follows:**

**4911            SCOPE OF PRACTICE**

- 4911.1        A physician assistant may, in accordance with this chapter and the Act, perform health care tasks that are consistent with sound medical practice, when delegated by their supervising physician(s) and the service is within the physician assistant's skills, forms a component of the physician's scope of practice, and the physician assistant is provided supervision.
- 4911.2        A written delegation agreement that lists delegated functions, practice sites, and supervisors must be signed by the supervising physician(s) and the physician assistant.
- 4911.3        Physician assistants may authenticate with their signature any form that may be authenticated by a supervising physician's signature so long as the form is within the scope of practice as set forth in the delegation agreement.

- 4911.4 Physician assistants shall be considered the agents of their supervising physician(s) in the performance of all practice-related activities including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.
- 4911.5 Each time a physician assistant provides care for a patient and enters his or her name, signature, initials, or computer code on a patient's record, chart, or written order, the physician assistant shall also enter the name of the supervising physician responsible for the patient.
- 4911.6 When a physician assistant transmits an oral order, he or she shall also state the name of the supervising physician responsible for the patient.
- 4911.7 A physician assistant may perform health care tasks and medically related services at any location where the supervising physician(s) can provide appropriate oversight and/or review of the physician assistant's actions related to the provision of such services.
- 4911.8 Physician assistants licensed in the District shall keep their license available for inspection at their primary place of business and shall, when engaged in their professional activities, identify themselves as physician assistants by introduction and by identification badge with clearly visible lettering with their name and title "Physician Assistant" or "PA-C".
- 4911.9 A physician assistant may give medical orders to health professionals, consistent with the policies of a hospital or health care facility where the orders are to be executed.

**Section 4912 is deleted in its entirety and amended to read as follows:**

**4912            PRESCRIBING DRUGS AND DISPENSING DRUGS**

- 4912.1 All physician assistants may perform those duties and responsibilities, including the ordering, prescribing, dispensing, and administration of drugs and medical devices that are delegated by their supervising physician(s). Each prescription must bear the name of the supervising physician and physician assistant.
- 4912.2 All written prescriptions issued by a physician assistant shall be written on a prescription pad that bears the printed names of the physician assistant and the supervising physician. The physician assistant must include the federal Drug Enforcement Agency (DEA) registration number on prescriptions for controlled medications.

- 4912.3 Electronic prescription orders must comply with the provisions of Title 22 DCMR, § 1304.
- 4912.4 Physician assistants may request, receive, and sign for professional samples and may dispense professional samples to patients as delegated by a supervising physician and as otherwise consistent with §§ 4912.1 and 4912.6.
- 4912.5 As delegated to do so by a supervising physician, physician assistants may order, prescribe, and dispense legend drugs and controlled substances enumerated in schedules II through V in D.C. Official Code § 48-902.01 *et seq.* Physician assistants authorized to prescribe and/or dispense controlled substances must register with the DEA.
- 4912.6 Professional samples of drugs dispensed pursuant to § 4912.4 shall be labeled to show the following:
- (a) The name and strength of the drug;
  - (b) The lot and control number; and
  - (c) The expiration date of the drug.
- 4912.7 All drugs dispensed by a physician assistant, except professional samples, shall be labeled to show the following:
- (a) The name and address of the providing institution;
  - (b) The name of the supervising physician and physician assistant;
  - (c) The name of the patient;
  - (d) The date dispensed;
  - (e) The name and strength of the drug;
  - (f) Directions for use;
  - (g) Cautionary statements, if appropriate;
  - (h) The lot and control number; and
  - (i) The expiration date of the drug.

4912.8 A physician assistant who administers, dispenses, or prescribes a prescription drug shall enter a progress note in the patient's chart on the date of the transaction and shall include the following information:

- (a) Each prescription that a physician assistant orders; and
- (b) The name, strength, and quantity of each drug that a physician assistant dispenses or administers.

**Section 4914 is deleted in its entirety and amended to read as follows:**

**4914 SUPERVISION**

- 4914.1 A physician assistant and a temporary licensed physician assistant shall be under the supervision of a physician at all times during which the physician assistant is working in his or her official capacity.
- 4914.2 In an inpatient setting, supervision of a physician assistant shall include, but not be limited to, continuing or intermittent physical presence of the supervising physician with constant availability through electronic communications.
- 4914.3 In an outpatient setting, supervision of a physician assistant shall include, but not be limited to, constant availability through electronic communications.
- 4914.4 It is the obligation of each team of physician(s) and physician assistant(s) to ensure that the physician assistant's scope of practice is identified; that delegation of medical tasks is appropriate to the physician assistant's level of competence; that the relationship of, and access to, the supervising physician(s) is defined; and that a process for evaluation of the physician assistant's performance is established.
- 4914.5 More than one physician may enter into a delegation agreement with a physician assistant. For each delegation agreement, the physician assistant and the physician whose name is listed first on the delegation agreement shall each be responsible for determining the terms and boundaries of the agreement, for updating the delegation agreement, and for overall quality assurance oversight as set forth in § 4914.4. Each physician who signs the delegation agreement is responsible for supervising the care of patients whose care the physician has delegated to the physician assistant.
- 4914.6 If a physician (due to a planned or unplanned absence) is unable personally to supervise the physician assistant consistent with the delegation agreement and this section, responsibility shall be delegated by the supervising physician to another supervising physician whose signature appears on the delegation agreement. If the supervising

physician is unable to delegate supervisory responsibility to another supervising physician, the physician assistant may request another supervising physician on the delegation agreement to assume the responsibility of supervising. The supervising physician must consent to assume the responsibilities of the absent supervising physician.

- 4914.7 A supervising physician must be a physician licensed in the District and must have accepted responsibility for supervision of the physician assistant by having signed the delegation agreement.
- 4914.8 The names of supervising physician(s) shall be included in the delegation agreement.
- 4914.9 A health care facility, organization, association, institution, or group practice which employs a physician assistant shall designate one or more physicians to supervise the physician assistant. Each physician so designated has ultimate responsibility for the care and treatment of a patient attended by the physician assistant, regardless of whether the designated supervising physician actually pays the salary of the physician assistant. A delegation agreement filed with the Board under this subsection shall not only include the name and signature of each supervising physician, but shall reflect that the designation of physician(s) came from the health care facility, organization, association, institution, or group practice.
- 4914.10 A physician shall not supervise more than four (4) physician assistants at one time.

**Section 4915 is deleted in its entirety and amended to read as follows:**

**4915 DELEGATION AGREEMENT**

- 4915.1 Prior to the physician assistant beginning practice, he or she shall have a written delegation agreement using the form provided by the Board. The delegation agreement shall describe the physician assistant's role in the practice and the settings in which the supervising physician(s) delegate(s) to the physician assistant the authority to see patients.
- 4915.2 The delegation agreement form must be signed by the supervising physician(s) and physician assistant and be filed by the physician assistant with the Board and kept on file at the primary practice site.
- 4915.3 In the event that there are changes to the delegation agreement, a new agreement form must be signed by the physician and physician assistant and be filed by the physician assistant with the Board and kept on file at the primary practice site.

- 4915.4 If there are changes to the supervising physician(s), the physician assistant must file with the Board a form provided by the Board for additions and deletions to the list of supervising physicians within ten (10) days of the effective date of the change.
- 4915.5 If there is a change in the employment status of the physician assistant, or the delegation agreement is otherwise terminated, a termination form provided by the Board must be filed by the first supervising physician listed on the delegation agreement with the Board within ten (10) days of the change of employment status of the physician assistant.
- 4915.6 A delegation agreement expires automatically upon termination of the employment of a physician assistant. However, termination of employment of a physician assistant does not cause a physician assistant's license to expire.
- 4915.7 Whenever it is determined that a physician or physician assistant is practicing in a manner inconsistent with the delegation agreement, the Board may demand modification of the agreement and take disciplinary action as appropriate.
- 4915.8 The Board shall maintain the following records regarding physician assistants, which records shall be available for public inspection:
- (a) A registry of physician assistants;
  - (b) A registry of supervising physicians; and
  - (c) A copy of each delegation agreement.

**Section 4916 is deleted in its entirety and amended to read as follows:**

#### **4916 SUPERVISING PHYSICIAN**

- 4916.1 A physician wishing to supervise a physician assistant must
- (a) Be licensed in the District of Columbia;
  - (b) Be free from any restriction on his or her ability to supervise a physician assistant that has been imposed by Board disciplinary action; and
  - (c) Maintain a written delegation agreement with the physician assistant. The agreement must state that the physician will exercise supervision over the physician assistant in accordance with any rule adopted by the

Board and will retain professional and legal responsibility for the care rendered by the physician assistant. The agreement must be signed by the physician and the physician assistant and updated at the time of physician assistant licensure renewal or as needed. The agreement must be filed pursuant to § 4915.2 with the Board and a copy must be kept on file at the practice site.

4916.2 A physician assistant may perform health care tasks as long as the supervising physician is available by electronic communications or has designated a substitute supervising physician. A supervising physician has ultimate responsibility for the medical care and treatment given to a patient by a physician assistant to whom the supervising physician has delegated authority to perform health care tasks.

4916.3 A licensed physician assistant employed or extended privileges by a hospital may, if permissible under the bylaws, rules and regulations of the hospital, write medical orders, including those for controlled substances, for patients under the care of the physician responsible for his/her supervision. Countersignature by the supervising physician shall not be required prior to the execution of any orders, but shall be accomplished within thirty (30) days of the execution of the order.

4916.4 Physician assistants may write orders and progress notes in outpatient settings. Countersignature by the supervising physician shall not be required prior to the execution, but shall be accomplished within ten (10) days of the execution of the order and within ten (10) days of any progress note.

**A new section 4917 is added to read as follows:**

**4917 DUTIES OF ADVISORY COMMITTEE ON PHYSICIAN ASSISTANTS**

4917.1 The Committee shall advise the Board on all matters pertaining to this chapter.

4917.2 The Committee shall review all applications for a license to practice as a physician assistant and make recommendations to the Board.

4917.3 The Committee shall review all delegation agreements and make recommendations to the Board regarding their content when warranted.

4917.4 The Committee shall review complaints regarding physician assistants referred by the Board and make recommendations to the Board regarding what action should be taken.

A new section 4918 is added to read as follows:

**4918 TITLE PROTECTION**

4918.1 Any person not licensed as a physician assistant by the Board shall be subject to penalties applicable to the unlicensed practice of a health occupation, if he or she:

(a) Represents himself or herself as a physician assistant with the intent to represent that he or she practices as a physician assistant; or

(b) Uses any combination or abbreviation of the term physician assistant, or "P.A.", or any similar title or description of services with the intent to represent that he or she practices as a physician assistant; or

(c) Acts as a physician assistant without being licensed by the Board. An unlicensed physician shall not be permitted to use the title of physician assistant or to practice as a physician assistant unless he or she fulfills the requirements of this chapter.

Section 4999 is deleted in its entirety and amended to read as follows:

**4999 DEFINITIONS**

4999.1 When 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 § 3-1201.01 *et seq.*

**Administer** – to give a prescription drug by injection, inhalation, ingestion, or other means of direct application to the body of a patient.

**Board** – as delegated to do so by a supervising physician the Board of Medicine, established by § 203(a) of the Act, D.C. Official Code § 3-1202.03(a) (2001).

**Committee** – the Advisory Committee on Physician Assistants, established by § 203(d) of the Act, D.C. Official Code § 3-1202.03(d) (2001).

**Controlled substance** – a drug defined as a controlled substance in one of the following acts or rules promulgated pursuant thereto:

(a) The Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. § 801 *et seq.*; or

- (b) The District of Columbia Uniform Controlled Substances Act of 1981, D.C. Official Code § 48-901.01 *et seq.* (2001).

**Delegation agreement** – a written agreement describing the manner and extent to which the physician assistant will practice and be supervised, including identification of each supervising physician who will supervise the physician assistant and other such information as the Board may require.

**Dispense** – to distribute a prescription drug to a patient or the patient’s agent, including the prescribing, packaging, labeling, and compounding necessary to prepare the prescription drug for distribution.

**Legend drug** – a drug with the phrase “Caution: Federal law prohibits dispensing without a prescription” stated on its label.

**Physician** – a person licensed to practice medicine under the Act, including an osteopath.

**Physician assistant** – a person licensed to practice as a physician assistant under the Act.

**Prescription drug** – one of the following drugs:

- (a) A drug which under federal law is required, prior to being dispensed or delivered, to be labeled in substance with either of the following statements:
- (1) “Caution: Federal law prohibits dispensing without prescription”;
  - or
  - (2) “Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian”;
- (b) A drug that is required by any applicable federal or District law or regulation to be dispensed by prescription only; or
- (c) A drug that is restricted to use by health and allied practitioners for research.

**Supervising physician** – a physician who supervises a physician assistant under the terms of a written delegation agreement registered by the Board.

4999.2

The definitions in the Act and in § 4099 of this title are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking should file 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 sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5 p.m., 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 under § 302(14) of the D.C. Department of Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 68 of Title 17 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 these amendments is to clarify the educational and training requirements for Podiatry licensure.

**Chapter 68 (Podiatry) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended in its entirety:**

**6800 GENERAL PROVISIONS**

- 6800.1 This chapter shall apply to applicants for and holders of a license to practice podiatry.
- 6800.2 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title shall supplement this chapter.

**6801 TERM OF LICENSE**

- 6801.1 Subject to § 6801.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of March 31<sup>st</sup> of each even-numbered year.
- 6801.2 If the Director changes the renewal system pursuant to § 4006.3 of chapter 40 of this title, a license 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 license, or other date established by the Director.

**6802 EDUCATIONAL REQUIREMENTS**

- 6802.1 Except as otherwise provided in this subtitle, an applicant shall furnish proof satisfactory to the Board that the applicant has successfully completed an educational program in the practice of podiatry at an institution accredited by the Council on Podiatric Medical Education (CPME) at the time the applicant graduated, in accordance with § 504(i) of the Act, D.C. Official Code § 3-1205.04(1) (2006 Supplement).

6802.2 An applicant shall submit a certified transcript of the applicant's educational record(s) and an official certificate of graduation from the educational institution to the Board with the completed application.

**6803 [RESERVED]**

**6804 NATIONAL EXAMINATION**

6804.1 To qualify for a license by examination, an applicant shall satisfy the following requirements in the order listed:

- (a) Graduate from a college of podiatric medicine that is accredited by the American Podiatric Medical Association's Council on Podiatric Education;
- (b) Receive a passing score on the national board examination part 3 developed by the National Board of Podiatry Examiners (the national examination) with a passing score as set by the District of Columbia Board of Podiatry.
- (c) Submit certified scores, validated by the Board of Podiatric Medical Examiners, along with a completed application; and
- (d) Complete a residency program which has been accredited by the Council on Podiatric Education.

**6804.2 Repealed.**

**6804.3 Repealed.**

**6805 Repealed.**

**6806 CONTINUING EDUCATION REQUIREMENTS**

6806.1 Subject to § 6806.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring March 31, 1992, and for subsequent terms.

6806.2 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 granted by examination.

6806.3 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 6807.

- 6806.4 An applicant for renewal of a license shall submit proof pursuant to § 6806.7 of having completed fifty (50) hours of approved continuing education credit during the two-year (2) period preceding the date the license expires. Twenty five (25) of the fifty (50) required continuing education credit may be completed on line.
- 6806.5 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 (2001 Supplement), who submits an application to reactivate a license shall submit proof pursuant to § 6806.7 of having completed fifteen (15) hours of approved continuing education credit for each license year after March 31, 1990, that the applicant was in inactive status, up to a maximum of seventy-five (75) hours.
- 6806.6 To qualify for a license, an applicant for reinstatement of a license shall submit proof pursuant to § 6806.7 of having completed twenty-five (25) hours of approved continuing education credit for each year after March 31, 1990, that the applicant was not licensed, up to a maximum of one hundred twenty-five (125) hours.
- 6806.7 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) **Repealed.**
  - (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.
- 6806.8 An applicant for renewal of a license who fails to submit proof of having completed continuing education requirements by the date the license expires may renew the license up to sixty (60) days after expiration by submitting proof pursuant to § 6807 and by paying the required additional late fee.
- 6806.9 Upon submitting proof of paying the late fee, the applicants shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documentation and payment of the late fee.
- 6806.10 If an applicant for renewal of a license fails to submit proof of completion of continuing education requirements or pay the late fee within sixty (60) days after

the expiration of applicant's license, the license shall be considered to have lapsed on the date of expiration.

6806.11 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 purposes 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.

**6807 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

6807.1 The Board may, in its discretion, approve continuing education programs and activities that contribute to the growth of an applicant in professional competence in the practice of podiatry and which meet the other requirements of this section.

6807.2 The Board may approve the following types of continuing education programs, if the program meets the requirements of § 6807.3:

- (a) A seminar or workshop;
- (b) An educational program given at a conference; and
- (c) In-service training.

6807.3 To qualify for approval by the Board, a continuing education program shall do the following:

- (a) Be current in its subject matter;
- (b) Be developed and taught by qualified individuals; and
- (c) Meet one of the following requirements:
  - (1) Be administered or approved by a recognized national, state, or local podiatry organization; health care organization; accredited health care facility; or an accredited college or university; or
  - (2) Be submitted by the program sponsors to the Board for review no less than sixty (60) days prior to the date of the presentation and be approved by the Board.

6807.4 The Board may issue and update a list of approved continuing education programs.

6807.4.1 An applicant shall have the burden of verifying whether a program is approved by the Board pursuant to this section prior to attending the program.

**6807.5 Repealed:**

**6808 CONTINUING EDUCATION CREDIT**

6808.1 The Board may grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) credit hour.

**6808.2-6808.11 Repealed.**

**6809 [RESERVED]**

**6810 PODIATRIST'S PROFILE**

6810.1 An applicant for an initial license or renewal of a license to practice podiatry shall provide to the Board of Podiatry the following information within thirty (30) days from the date of the initial application or renewal or, change in the following information:

- (a) The address and telephone number of the primary practice setting and all secondary practice settings with the percentage of time spent at each location;
- (b) The names of schools of podiatry and graduate podiatric education programs attended with dates of graduation or completion of training;
- (c) The names and dates of specialty Board certification, if any, as approved by the American Podiatry Association, the American Podiatric Medical Association, the American Association of Colleges of Podiatric Medicine, or the American Academy of Podiatric Sports Medicine;
- (d) The number of years in active, clinical practice in the United States or Canada following completion of podiatric training and the number of years, if any, in active, clinical practice outside the United States or Canada;
- (e) The area of specialty, if any, in which the podiatrist practices;
- (f) The names of hospitals with which the podiatrist is affiliated;

- (f) The names of hospitals with which the podiatrist is affiliated;
- (g) Appointments, if applicable, within the past ten (10) years to podiatric school faculties with the years of service and academic rank;
- (h) Publications, not to exceed ten (10) in number, in peer-reviewed literature within the most recent five-year period, to be supplied at the physician's discretion;
- (i) Access, if any, to translating services for non-English speaking patients at the primary and secondary practice setting and which, if any, foreign languages are spoken in the practice;
- (j) Whether the podiatrist participates in the District Medicaid and Medicare programs and whether he or she is accepting new Medicaid and Medicare patients, or D.C. Health Alliance;
- (k) The names of insurances accepted by the podiatrist, to be supplied at the podiatrist's discretion;
- (l) Information on misdemeanor and felony convictions including the date(s) of the conviction, the nature of the conviction, the jurisdiction in which the conviction occurred, and the sentence imposed, if any;
- (m) Within the last ten (10) years, final orders of any regulatory board of another jurisdiction that resulted in the denial, probation, revocation, suspension, or restriction of any license or that resulted in the reprimand or censure of any licensure, fines imposed, or the voluntary surrender of a license while under investigation in a jurisdiction other than the District of Columbia, restriction or termination of privileges at a healthcare facility as a result of peer review action, as well as any disciplinary action taken by a federal health institution or federal agency; and
- (n) The date, amount, and description of any malpractice settlement amount or payout resulting from a judgment made within the last ten (10) years.

6899

**DEFINITIONS**

6899.1

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

**Applicant** – a person applying for a license to practice podiatry under this chapter.

**Board** – the Board of Podiatry established by § 210 of the Act, D.C. Official Code § 3-1202.10 (2001 Supplement).

**Podiatrist** – a person licensed to practice podiatry under the Act.

6899.2 The definitions in § 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 matter of this proposed rulemaking should file 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 sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5 p.m., Monday through Friday, excluding holidays.

## METROPOLITAN POLICE DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

The Chief of Police of the Metropolitan Police Department, pursuant to authority set forth in section 6 of the District of Columbia Hazardous Materials Transportation and Motor Carrier Safety Act of 1988 ("Act"), effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-1405 (2001), and Mayor's Order 89-169, dated July 25, 1989, hereby gives notice of intent to amend Title 18 of the District of Columbia Municipal Regulations, Vehicle and Traffic.

The proposed rulemaking would allow the Metropolitan Police Department's Motor Carrier Safety Unit and other government employees, right of entry to business offices in order to ensure compliance with federal and District regulations governing commercial transportation safety. The proposed rulemaking would also enable the compliance review process to become fully operational in the District in compliance with federal regulations.

Pursuant to Section 6 of the Act, this proposed rulemaking will be transmitted to the Council, and the proposed rulemaking will become effective upon expiration of the forty-five (45) day period of Council review or upon approval by Council resolution, whichever comes first, and publication of final rulemaking in the *DC Register*.

Chapter 14 of Title 18 District of Columbia Municipal Regulations is amended as follows:

A new subsection 1400.3 is added as follows:

1400.3 Any motor carrier as defined in §1401 shall permit auditors, accountants, law enforcement officers, examiners, and other authorized agents of the District of Columbia Government to examine vehicles, vehicle loads, terminals, buildings, equipment and other facilities, and examine and copy books, records, accounts, bills of lading, load sheets, manifests, correspondence, and other records of the motor carrier's operations relating to the transportation of property or passengers.

A new subsection 1400.4 is added as follows:

1400.4 All motor carriers as defined in § 1401 shall instruct their employees, drivers, and agents to cooperate with government employees conducting examinations pursuant to § 1400.3.

Subsection 1406.1 is amended to read as follows:

1406.1 Motor carriers and shippers shall be required to comply with all other federal regulations that are referenced in title 49 of the Code of Federal Regulations, Parts 171 through 180, and 382, 383, 385, 386, 387, 388, and

389 through 399 and the Federal Hazardous Materials Regulations Part 107 (subparts F and G only).

Any person wishing to comment on these proposed rules may send comments to Terrence D. Ryan, General Counsel, Metropolitan Police Department, 300 Indiana Avenue, N.W., Rm. 4125, Washington, D.C. 20001.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF PROPOSED RULEMAKING**

**Z.C. Case No. 06-23  
(Text Amendment – 11 DCMR)  
(Eating Establishments)**

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01), hereby gives notice of its intent to amend sections 199, 601, 701, 704, 721, 733, 741, 742, 743, 752, 761, 801, 821, 901, 1302, 1307, 1309, 1320, 1401, 1703, 1710, 1732, 1807, 1907, and 3104 of the Zoning Regulations (Title 11 DCMR), and add a new section 712.

The proposed amendments will revise the definition of “restaurant”, change the name of the existing use “fast food restaurant” to “fast food establishment”, and revise the definition of “fast food establishment”. The amendments will also establish a new use, “prepared food shop”, that applies to establishments offering limited seating or carry out service and are principally devoted to the sale of prepared food, non-alcoholic beverages, or refreshments, and define “prepared food” as food that is assembled, but not heated by means other than microwave or toaster, on the premises of a prepared food shop. No change is proposed to the locations where restaurants and fast food restaurants are permitted. In most instances, prepared food shops will be permitted wherever restaurants are allowed, but prepared food shops with 18 or more seats will require special exception approval in C-1 and C-2-A Zone Districts.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register

The following rulemaking action is proposed:

Title 11 DCMR is amended as follows. Added text is shown **bolded** and underlined, deleted text is shown in ~~strike through~~:

1. Section 199, Definitions, § 199.1, is amended as follows:

(a) Insert the following new definitions in alphabetical order:

**Fast food establishment - a place of business, other than a “prepared food shop,” where food is prepared on the premises and sold to customers for consumption and at least one of the following conditions apply:**

**(a) The premises include a drive-through;**

**(b) Customers pay for the food before it is consumed. One characteristic that would satisfy this element would be building permit plans that depict a service counter without seating unless the applicant certifies that the intended principal use is for a restaurant or grocery and that**

Z.C. NOTICE OF PROPOSED RULEMAKING  
Z.C. CASE NO. 06-23  
PAGE 2

the counter is part of a carry out service that is clearly subordinate to that principal use; or

- (c) Food is served on/in anything other than non-disposable tableware. Characteristics that would satisfy this element include, but are not limited to: the building permit plans do not depict a dishwasher or do depict trash receptacles in public areas.

A proposed or existing establishment meeting this definition shall not be deemed to constitute any other use permitted under the authority of these regulations, except that a restaurant, grocery store, movie theater, or other use providing carryout service that is clearly subordinate to its principal use shall not be deemed a fast-food establishment.

Prepared food – food that is assembled, but not heated by means other than microwave or toaster, on the premises of a prepared food shop.

Prepared food shop - a place of business that offers seating or carry out service, or both, and which is principally devoted to the sale of prepared food, non-alcoholic beverages, or cold refreshments. This term includes an establishment known as a sandwich shop, coffee shop, or an ice cream parlor.

- (b) Delete the definition "Restaurant, fast food."
- (c) Amend the definitions of "drive-through", "food delivery service", and "restaurant" as follows:

**Drive-through** - a system designed to permit customers of a ~~restaurant~~, fast food ~~establishment~~ ~~restaurant~~, bank, dry cleaning or other establishment to obtain goods or services by driving through the property and conducting the transaction while the customer remains within a motor vehicle. The system has two (2) major parts: a vehicular queuing lane or lanes, and one (1) or more service locations where customers place orders or receive services or both. No part of this definition shall be construed to apply to a gasoline service station.

**Food delivery service** - a restaurant, ~~delicatessen~~ prepared food shop, or fast food ~~establishment~~ ~~restaurant~~ in which the principal use is production ~~delivery~~ of prepared food for delivery by motor vehicle to customers located off the business premises. Seating and tables for customers may or may not be provided for on-premises consumption, but if present are clearly subordinate to the principal use of preparing food for delivery ~~delivering prepared food~~ to off-site customers. Any establishment that derives more than seventy-five percent (75%) of its sales from

Z.C. NOTICE OF PROPOSED RULEMAKING  
Z.C. CASE NO. 06-23  
PAGE 3

delivery orders will be considered a food delivery service in all cases. This definition does not include catering establishments.

**Restaurant** - a place of business that does not meet the definition of a "fast food establishment" or "prepared food shop," where food, drinks or refreshments are prepared on the premises and sold to customers primarily for consumption on the premises. ~~This term shall include but not be limited to an establishment known as a café, lunch counter, cafeteria, or other similar business, but shall not include a fast food restaurant.~~ In a restaurant, a Any facilities for carryout shall be clearly subordinate to the principal use of providing prepared foods for consumption on the premises.

2. Section 601, Uses as a Matter of Right (CR), § 601.1(i), is amended to read as follows:

- (i) Private club, restaurant, prepared food shop, fast food ~~restaurant~~ establishment, or food delivery service, provided a fast food ~~restaurant~~ establishment, or food delivery service shall not include a drive-through;

3. Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

(a) Section 701, Uses as a Matter of Right (C-1), is amended as follows:

(i) By amending § 701.4(q) to read as follows:

(q) Restaurant, but not including a fast food ~~restaurant~~ establishment, ~~a drive-in restaurant~~, or a food delivery service.

(ii) By adding a new § 701.4(aa) to read as follows:

(aa) Prepared food shop, with no more than 18 seats for patrons and no drive-through.

(b) Section 704, Special Exceptions: General (C-1), § 704.1, is amended to read as follows:

704.1 The following uses as specified in §§ 706 through 711 ~~711~~ 712 shall be permitted as special exceptions in a C-1 District if approved by the Board of Zoning Adjustment under § 3104.

## Z.C. NOTICE OF PROPOSED RULEMAKING

Z.C. CASE NO. 06-23

PAGE 4

- (c) By adding a new § 712 to read as follows:

**712 PREPARED FOOD SHOP**

**712.1 A Prepared Food Shop with more than eighteen seats for patrons shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104 provided that no drive-through shall be permitted.**

- (d) Section 721, Uses as a Matter of Right (C-2), is amended as follows:

- (i) Subsection 721.3(s) is amended by striking the phrase “fast food restaurant” and inserting the phrase “fast food establishment” in its place.

- (ii) By adding a new § 721.3(t) to read as follows:

- (t) Prepared food shop, except that in a C-2-A district, a prepared food shop with greater than twelve seats for patrons shall be only be permitted by special exception pursuant to 11 DCMR 712.

- (e) Section 733, Fast Food Restaurants in C-2-A Districts is amended as follows:

- (i) By striking the phrase “fast food restaurant” wherever it appears and inserting the phrase “fast food establishment” in its place.

- (ii) By adding a new § 733.12 to read as follows:

733.12 An applicant for special exception under this section may request the Board to modify the conditions enumerated in §§ 733.2 through 733.4; provided that the general purposes and intent of this section are complied with.

- (f) Sections 741.3(c) and 743.4 are amended by striking the phrase “fast food restaurant” wherever it appears and inserting the phrase “fast food establishment” in its place.

- (g) Subsections 742.4, 752.4, and 761.6 are amended by striking the phrase “fast food restaurant, delicatessen, or carryout” and inserting the phrase “fast food establishment” in its place.

4. Chapter 8, INDUSTRIAL DISTRICTS, §§ 801.10 and 821.5 are amended by striking the phrase “fast food restaurant, delicatessen, or carryout” and inserting the phrase “fast food establishment” in its place.

Z.C. NOTICE OF PROPOSED RULEMAKING  
Z.C. CASE NO. 06-23  
PAGE 5

5. Chapter 9, WATERFRONT DISTRICTS, Section 901, Uses as a Matter of Right (W), § 901.1(j), is amended to read as follows:

- (j) Private club, restaurant, fast food ~~restaurant~~ **establishment**, **prepared food shop**, or food delivery service, provided that a fast food ~~restaurant~~ **establishment**, or food delivery service shall not include a drive-through;

6. Chapter 13, NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT is amended as follows:

- (a) Section 1302 Designated and Restricted Uses, § 1302.5, is amended to read as follows:

1302.5 Restaurants, fast food ~~restaurants~~ **establishments**, ~~delicatessens, carry-outs, and similar eating or drinking establishments~~ **and prepared food shops** shall be subject to the following limitations:

- (b) Section 1307, Woodley Park Neighborhood Commercial Overlay District, § 1307.5, is amended to read as follows:

1307.5 No hotel, inn, or fast food ~~restaurant~~ **establishment** shall be permitted in the WP Overlay District.

- (c) Section 1309, Eight Street Southeast Neighborhood Commercial Overlay District, § 1309.4, is amended to read as follows:

1309.4 For purposes of § 1302.5, restaurants, fast food ~~restaurants~~ **establishments**, ~~delicatessens, carry-outs, and similar eating or drinking establishments~~ **and prepared food shops**, shall be subject to the following limitations: these uses shall occupy no more than fifty percent (50%) of the linear street frontage within the ES Overlay District, as measured along the lots that face designated roadways in the ES Overlay District of which up to half (1/2) of the fifty percent (50%) of the linear street frontage shall only be occupied by fast food restaurants.

- (d) Section 1320, H Street Northeast Neighborhood Commercial Overlay District (HS). § 1320.4(c), is amended to read as follows:

- (c) Fast food ~~restaurant~~ **establishment** or food delivery service provided:

## Z.C. NOTICE OF PROPOSED RULEMAKING

Z.C. CASE NO. 06-23

PAGE 6

7. Chapter 14, REED-COOKE OVERLAY DISTRICT, Section 1401, Use Provisions, § 1401.1(c) is amended to read as follows:

(c) Restaurant or fast food ~~restaurant~~ **establishment**;

8. Chapter 17, DOWNTOWN DEVELOPMENT OVERLAY DISTRICT, is amended as follows:

(a) Subsection 1703.3(b) is amended to read as follows:

1703.3 Each new or altered building that faces or abuts a public street shall devote all of the ground floor leasable space to the retail and service uses listed in § 1710 or the arts and arts-related uses listed in § 1711; provided:

...  
(b) Not more than twenty percent (20%) of the required gross floor area on the ground floor shall be occupied by banks, loan offices, other financial institutions, travel agencies, or other transportation ticket offices, ~~delicatessens~~ **prepared food shops**, fast food ~~restaurants~~ **establishments**, printing or fast copy services, newsstands, dry cleaners, or any combination thereof;

(b) Subsections 1710.1(v) and 1732.2(ee), are amended by striking the phrase "fast food restaurant" where it appears and inserting the phrase "fast food establishment" in its place.

9. Chapter 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT, Section 1807.2 Preferred Uses, § 1807.2 (fff), is amended as follows:

(fff) Restaurant, ~~not including drive-in or fast food~~;

10. Chapter 19, UPTOWN ARTS-MIXED USE (ARTS) OVERLAY DISTRICT, §1907.1 (o) is repealed.

11. CHAPTER 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3104, Special Exceptions, is amended by adding the following to the list of special exceptions set forth in the table in § 3104.1.

**Z.C. NOTICE OF PROPOSED RULEMAKING****Z.C. CASE NO. 06-23****PAGE 7**

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Prepared food shop with greater than eighteen seats for patrons	C-1, C-2-A	712

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF PROPOSED RULEMAKING**

**Z.C. Case No. 06-36A**

**(Map Amendment – 11 DCMR)**

**(Amend Zoning Map from R-5-B to R-4 in Squares 2676, 2677, and 2684)**

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (“Zoning Act”), hereby gives notice of its intent to amend the Zoning Map of the District of Columbia.

The purpose of this map amendment is to rezone various properties to R-4 to be consistent with the District Elements of the Comprehensive Plan for the National Capital.

Final rulemaking action shall be taken in not less than thirty (30) days after the date of publication of this notice in the D.C. Register. The following rulemaking action is proposed:

Amend the Zoning Map of the District of Columbia to zone the following lots from R-5-B to R-4:

<b>Square</b>	<b>Lots</b>
2676	781, 785-794
2677	371-373, 427-432, 623-625, 646-652
2684	489-491, 553

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.