

**DISTRICT OF COLUMBIA
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) (hereinafter "the Act"), and in accordance with Mayor's Order 98-137, dated August 20, 1998, hereby gives notice of the adoption of the following amendment to section 3211 of the rules concerning the licensure, construction and operating standards for nursing facilities, codified at 22 DCMR Chapter 32.

The amendment was first adopted as emergency rulemaking on December 6, 2004. The D.C. Council affirmatively approved the amendment by ratifying the "Nursing Facility Proposed Rulemaking Amendment Emergency Approval Resolution of 2004", Resolution # 15-812, on December 21, 2004. The amendment was published as emergency and proposed rulemaking on February 11, 2005, at 52 DCR 1327. No comments were received, and no changes have been made to the amendment as earlier adopted and published.

Section 3211 of Chapter 32 of Title 22 of the DCMR is amended to read as follows:

3211 NURSING PERSONNEL

3211.1 Sufficient nursing time shall be given to each resident to ensure that the resident receives the following:

- (a) Treatments, medications, diet and nutritional supplements and fluids as prescribed, and rehabilitative nursing care as needed;
- (b) Proper care to minimize pressure ulcers and contractures and to promote the healing of ulcers;
- (c) Assistance in daily personal grooming so that the resident is comfortable, clean, and neat as evidenced by freedom from body odor, cleaned and trimmed nails, and clean, neat and well-groomed hair;
- (d) Protection from accident, injury, and infection;
- (e) Encouragement, assistance, and training in self-care and group activities;
- (f) Encouragement and assistance to:

- (1) Get out of bed and dress or be dressed in his or her own clothing, and shoes or slippers, which shall be clean and in good repair;
- (2) Use the dining room if he or she is able; and
- (3) Participate in meaningful social and recreational activities;
- (g) Prompt, unhurried assistance if he or she requires or requests help with eating;
- (h) Prescribed adaptive self-help devices to assist him or her in eating independently;
- (i) Assistance, if needed, with daily hygiene, including oral care; and
- (j) Prompt response to an activated call bell or call for help.

3211.2 Each facility shall have at least the following employees:

- (a) At least one (1) registered nurse on a twenty-four (24) hour basis, seven (7) days a week;
- (b) Twenty-four (24) hour licensed nursing staff sufficient to meet nursing needs of all residents;
- (c) At least one practical or registered nurse, serving as charge nurse, on each unit at all times; and
- (d) A minimum of two (2) nursing employees per nursing unit, per shift.

3211.3 Beginning no later than January 1, 2005, each facility shall employ sufficient nursing staff to provide a minimum daily average of 3.5 nursing hours per resident per day. Nursing staff shall include Registered Nurses (RN), Licensed Practical Nurses (LPN), and Certified Nurse Aides (CNA).

3211.4 The staffing requirements in subsection 3211.3 shall be adjusted upward for residents with higher nursing care needs and for residents with more acute conditions.

3211.5 The Department of Health may consider a waiver of the staffing requirements in subsection 3211.3 for a facility that has had, within the previous three (3) years, no deficiencies related to resident care that have exceeded the federal C level in scope and severity (no actual harm; potential for only minimal harm). The Department may also consider a waiver for a facility that has had, within the previous three (3) years, one (1) deficiency related to resident care at the federal D level in scope and

severity (an isolated incident; no actual harm; potential for more than minimal harm), if the facility has demonstrated an otherwise good level of care.

- 3211.6 To meet the requirements of subsections 3211.2 and 3211.3(b), facilities of thirty (30) licensed occupied beds or more shall not include the Director of Nursing Services or any other nursing supervisory employee who is not providing direct resident care.
- 3211.7 Weekly time schedules shall be maintained and indicate the number and classifications of nursing personnel, including relief personnel who work on each unit for each tour of duty.
- 3211.8 Nursing personnel, licensed practical nurses, certified nurse aides, nurse aides, orderlies, and ward clerks shall be assigned duties consistent with their education and experience and based on the characteristics of the patient load.
- 3211.9 A facility shall not employ an individual, other than a certified nurse aide, as a nurse aide unless that person is enrolled and actively participating in a training and competency evaluation program approved by the District.
- 3211.10 A facility shall not employ an individual, other than a certified nurse aide, as a nurse aide if that person has been employed as a nurse aide for six (6) of the immediately preceding twelve (12) months and he or she has not completed a training and competency evaluation program approved by the District.
- 3211.11 The facility shall provide regular performance review and regular in-service education to ensure that individuals employed as nurse aides, including certified nurse aides, are competent to perform services as nurse aides.
- 3211.12 The facility shall ensure that nurse aides, including certified nurse aides, are competent in those skills necessary to care for residents' needs, as identified in the residents' individualized assessments and plans of care.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd FLOOR, WEST TOWER
WASHINGTON, D.C. 20005

NOTICE OF FINAL RULEMAKING

TELEPHONE TARIFF 04-9, IN THE MATTER OF THE APPLICATION OF
VERIZON WASHINGTON, D.C., INC., FOR AUTHORITY TO AMEND THE
GENERAL SERVICES TARIFF P.S.C. - D.C. -No. 203

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice of its final rulemaking action, taken in Order No. 13539 (March 25, 2005), to approve the tariff application of Verizon Washington, D.C. Inc. ("Verizon DC")¹ to amend the following tariff pages:

GENERAL SERVICES TARIFF P.S.C.-D.C.-No. 203
Section 4, 2nd Revised Page 5
1st Revised Page 6

2. Through this tariff filing, Verizon DC sought to increase the monthly recurring rates for Non Published Listing by 9.9 percent (from \$0.81 to \$0.89), Non Listed service by 9.3 percent (from \$0.43 to \$0.47), and Residential Additional Listings by 9.9 percent (from \$1.72 to \$1.89).² These services are classified as Discretionary Services under Price Cap Plan 2004, which limits rate increases to 15 percent or less annually.³ Verizon DC asserted that the Application complied with Price Cap Plan 2004.

3. The Commission issued a Notice of Proposed Rulemaking, published in the *D.C. Register* on January 7, 2005, inviting the public to submit comments on the proposed tariff revision.⁴ No comments were filed. The Commission subsequently approved Verizon DC's Application in Order No. 13539, finding that the proposed tariff revision was consistent with the requirements of Sections 3(a) and 3(a)(3) of Price Cap Plan 2004. This tariff revision becomes effective upon the publication date of this Notice of Final Rulemaking in the *D.C. Register*.

¹ *Telephone Tariff 04-9, In the Matter of the Application of Verizon Washington, DC, Inc. for Authority to Amend the General Services Tariff, P.S.C.-D.C.-No. 203*, Letter from J. Henry Ambrose, Verizon DC Vice President for Regulatory Matters to Christine D. Brooks, Commission Secretary (December 17, 2004) ("Application").

² Verizon DC's Application erroneously stated that the monthly recurring rates for each of the three services would increase by "9.1%." See Application at 1.

³ See *id.* See also *Formal Case No. 1005, In the Matter of Verizon Washington, D.C. Inc.'s Price Cap Plan 2004 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 13370 (September 9, 2004) ("Price Cap Plan 2004").

⁴ 52 *D.C. Reg.* 81-82 (2005).