

## OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

NOTICE OF PROPOSED RULEMAKING

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in the District of Columbia Documents Act, effective March 6, 1979 (D.C. Law 2-153), hereby gives notice of her intent to adopt the following amendment to Chapter 3 of Title 1 of the *District of Columbia Municipal Regulations* in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The purposes of the rulemaking are to amend 1 DCMR §313.3 so that it is consistent with the current structure of the DCMR, and to provide rules for citing subtitles.

**1 DCMR Chapter 3, RULES OF THE OFFICE OF DOCUMENTS, is amended as follows:**

**Subsection 313.3 is amended to read as follows:**

313.3 The structure of the *D.C. Municipal Regulations* is the following:

- 1 MAYOR AND EXECUTIVE AGENCIES
- 3 ELECTIONS AND ETHICS
- 4 HUMAN RIGHTS
- 5 EDUCATION
- 6A POLICE PERSONNEL
- 7 EMPLOYMENT BENEFITS
- 8 UNIVERSITY OF THE DISTRICT OF COLUMBIA
- 9 TAXATION AND ASSESSMENTS
- 10 DISTRICTS COMPREHENSIVE PLAN (PART 1)
- 10 PLANNING AND DEVELOPMENT (PART 2)
- 11 ZONING
- 12 CONSTRUCTION CODES

- 13B BOILER AND PRESSURE VESSEL CODE
- 14 HOUSING
- 15 PUBLIC UTILITIES & CABLE TELEVISION
- 16 CONSUMERS, COMMERCIAL PRACTICES & CIVIL  
INFRACTIONS
- 17 BUSINESS, OCCUPATIONS & PROFESSIONALS
- 18 VEHICLES & TRAFFIC
- 19 AMUSEMENTS, PARKS & RECREATION
- 20 ENVIRONMENT – CHAPTERS 1-39
- 20 ENVIRONMENT – CHAPTERS 40-70
- 21 WATER & SANITATION
- 22 PUBLIC HEALTH & MEDICINE
- 22 HEALTH CARE & COMMUNITY RESIDENCE FACILITIES  
SUPPLEMENT
- 23 ALCOHOLIC BEVERAGES
- 24 PUBLIC SPACE AND SAFETY
- 25 FOOD AND FOOD OPERATIONS
- 26 INSURANCE
- 27 CONTRACTS AND PROCUREMENT
- 28 CORRECTIONS, COURTS & CRIMINAL JUSTICE
- 29 PUBLIC WELFARE
- 30 LOTTERY AND CHARITABLE GAMES
- 31 TAXICABS & PUBLIC VEHICLES FOR HIRE

**Paragraph (b) and (c) of Subsection 313.9 and Subsection 313.10 are amended to read as follows:**

313.9 The various divisions of the *D.C. Municipal Regulations* shall be designated in the following manner:

(b) **SUBTITLES** – Consecutively in upper case Arabic letters throughout each Title. (A,B,C,...);

(c) **CHAPTERS** – Consecutively in Arabic numerals throughout each title or subtitle. (100.0, 200.0, 300.0, ...3400.0, 3500.0, ...);

313.10 The numbering system of the D.C. Municipal Regulations can be used to identify the types of divisions contained in a citation. For example: 18 DCMR A §235.6(a)(4) is subparagraph (4) of paragraph (a) of subsection 6 of section 35 of chapter 2 of subtitle A of title 18 DCMR.

Comments on this proposed regulation should be submitted, in writing, to Mr. Gregory Fields, Staff Attorney, Office of Documents and Administrative Issuances, 441 4<sup>th</sup> Street, N.W., Suite 520 South, Washington, D.C. 20001, within thirty (30) days of the publication of this notice in the *D.C. Register*. Additional copies of this proposed regulation are available at the above address.

**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 75 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 the amendment is to repeal the waiver of examination and education requirements.

**Chapter 75 (Massage Therapy) of Title 17 (Business, Occupations & Professions) DCMR is amended to read as follows:**

7509            Repealed.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty 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 District of Columbia Health Occupations Revision Act of 1985 (“Act”), 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 Title 17 (Business, Occupations & Professions) 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 the amendments is to establish licensure and practice regulations for the profession of physical therapist assistant, which was newly established pursuant to the Physical Therapy Assistant Licensure Amendment Act of 2006, effective March 6, 2007 (D.C. Law 16- 220; D.C. Official Code § 3-1201.02(12)(B)).

**Title 17 (Business, Occupations & Professions) is amended as follows:****I. The table of contents is amended as follows:****A. A new chapter heading is added to read as follows:****CHAPTER 82 PHYSICAL THERAPIST ASSISTANTS****B. Section headings for Chapter 82 are added to read as follows:**

8200	GENERAL PROVISIONS
8201	TERM OF LICENSE
8202	EDUCATIONAL REQUIREMENTS
8203	[RESERVED]
8204	LICENSURE BY EXAMINATION
8205	LICENSURE BY ENDORSEMENT
8206	CONTINUING EDUCATION REQUIREMENTS
8207	APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES
8208	CONTINUING EDUCATION CREDITS

8209           LAWFUL PRACTICE

8299           DEFINITIONS

**II.    A new Chapter 82 is added to read as follows:**

**CHAPTER 82           PHYSICAL THERAPIST ASSISTANTS**

**8200           GENERAL PROVISIONS**

8200.1        This chapter shall apply to applicants for and holders of a license to practice as a physical therapist assistant.

8200.2        Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) shall supplement this chapter.

**8201           TERM OF LICENSE**

8201.1        Subject to § 8201.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of January 31 of each odd-numbered year.

8201.2        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.

**8202           EDUCATIONAL REQUIREMENTS**

8202.1        Except as otherwise provided in this subtitle, an applicant applying for a license to practice as a physical therapist assistant shall establish to the satisfaction of the Board that the applicant has successfully completed an educational program in physical therapy appropriate for preparation as a physical therapist assistant, which is accredited by an agency recognized by the Secretary of the Department of Education or the Council of Postsecondary Accreditation.

8202.2        An applicant shall submit with a completed application an official certified transcript of the applicant's educational record and a certificate of graduation from the educational institution.

**8203           [RESERVED]**

**8204           LICENSURE BY EXAMINATION**

- 8204.1 An applicant for licensure as a physical therapist assistant by examination shall initiate the application process by submitting a completed application together with the appropriate application fee and the documentation required by § 8202.2.
- 8204.2 An applicant for licensure as a physical therapist assistant shall have pre-approval from the Board before taking any licensure examination. Only an applicant who has graduated from an accredited physical therapist assistant program may be approved by the Board to take the physical therapist assistant licensure examination.
- 8204.3 An applicant for licensure by examination shall take and pass the National Physical Therapist Examination (“NPTE”) and the District of Columbia jurisprudence examination for physical therapist assistants.
- 8204.4 Following approval from the Board to take the applicable examinations, the applicant may take the national examination and the District jurisprudence examination in any order.
- 8204.5 The passing score on the national examination shall be determined by the body administering the examination.
- 8204.6 The District jurisprudence examination shall be developed and administered by the Board or, a body approved by the Board, on laws and rules pertaining to the practice of physical therapy in the District of Columbia.
- 8204.7 The District jurisprudence examination may consist of questions on District of Columbia laws pertaining to the practice of physical therapy including the Act, this chapter, and chapters 40 and 41 of this title. The passing score of the District examination shall be determined by the Board.
- 8204.8 An applicant for licensure who does not pass either examination on the first attempt shall seek and obtain Board approval for any subsequent attempts to retake the examination. Before the Board may approve an applicant for subsequent testing beyond three (3) attempts, an applicant shall submit proof satisfactory to the Board of having completed any remediation as determined by the Board.
- 8204.9 If the Board determines that an applicant has engaged in or has attempted to engage in conduct that subverts or undermines the integrity of either the national examination or the District jurisprudence examination, the Board may disqualify the applicant from taking the examinations. Examples of such conduct may include, but are not limited to the following:

- (a) Utilizing in any manner recalled or memorized examination questions;
- (b) Failing to comply with all test center security procedures;
- (c) Attempting to communicate with other examinees during the test; or
- (d) Copying or sharing examination questions or answers or portions of questions or answers.

8204.10 All occurrences of any violation set forth in § 8204.9 shall be recorded in the official records of the Board. Board action may include, but is not limited to the following:

- (a) Disqualifying test results of the applicant's examinations;
- (b) Disqualifying the applicant, permanently or for a specified period of time, from eligibility for the examinations;
- (c) Disqualifying the applicant, permanently or for a specified period of time, from eligibility for licensure; or
- (d) Revocation, suspension, or imposition of probationary conditions on a license issued to the applicant.

**8205 LICENSURE BY ENDORSEMENT**

8205.1 The Board shall issue a license by endorsement to a physical therapist assistant who has a valid, unrestricted license in good standing from another jurisdiction of the United States and who meets all other requirements of this section.

8205.2 An applicant for licensure by endorsement as a physical therapist assistant shall submit with a completed application the following:

- (a) Official, certified proof of licensure as a physical therapist assistant in good standing from another jurisdiction of the United States;
- (b) Official, certified proof, from the body administering the examination, that the applicant has passed the Board-approved national licensure examination for a physical therapist assistant; and

(c) Proof pursuant to § 8202.1.

8205.3 An applicant shall take and pass the District of Columbia jurisprudence examination for physical therapist assistants after obtaining Board approval.

**8206 CONTINUING EDUCATION REQUIREMENTS**

8206.1 Subject to § 8206.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license expiring January 31, 2011, and for subsequent terms.

8206.2 This section shall not apply to applicants for an initial license by examination or endorsement, nor shall it apply to applicants for the first renewal of a license granted by examination.

8206.3 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 8207.

8206.4 An applicant for renewal of a license shall submit proof pursuant to § 8206.7 of having completed three (3) continuing education units or thirty (30) hours of approved continuing education credit during the two (2) year period preceding the date the license expires.

8206.5 To qualify for a license, a person in inactive status within the meaning of section 511 of the Act (D.C. Official Code § 3-1205.11) who submits an application to reactivate a license shall submit proof of having completed fifteen (15) hours of approved continuing education credit within one (1) year prior to application for each license year after January 31, 2011, that the applicant was in inactive status.

8206.6 To qualify for a license, an applicant for reinstatement of a license shall submit proof of having completed fifteen (15) hours of approved continuing education credit for each year after January 31, 2011, that the applicant was not licensed.

8206.7 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) The name and address of the sponsor of the program;
- (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.

- 8206.8 If an applicant for renewal of a license fails to submit proof of having completed continuing education requirements by the date the license expires, the applicant shall not practice until his or her license has been renewed.
- 8206.9 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 the expiration by submitting proof pursuant to § 8206.7 and paying the late fee.
- 8206.10 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 the applicant's license, the license shall be considered to have lapsed and the applicant shall be required to apply for reinstatement pursuant to section 512 of the Act (D.C. Official Code § 3-1205.12).
- 8206.11 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. As used in this section, "good cause" includes the following:
- (a) Serious and protracted illness of the applicant; and
  - (b) The death or serious and protracted illness of a member of the applicant's immediate family.
- 8206.12 The Board may conduct an audit of licensees to determine compliance with the continuing education requirements.

**8207 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

- 8207.1 The Board may, in its discretion, approve continuing education programs and activities that contribute to the growth of an applicant in professional competence while practicing as a physical therapist assistant and which meet the other requirements of this section.

- 8207.2 The Board may approve the following types of continuing education programs, if the program meets the requirements of § 8207.3:
- (a) An undergraduate or graduate course given at an accredited college or university;
  - (b) A seminar or workshop;
  - (c) An education program given at a conference;
  - (d) In-service training (maximum ten (10) hours of credit);
  - (e) Home study courses; and
  - (f) Online courses.
- 8207.3 To qualify for approval by the Board, a continuing education program shall:
- (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 physical therapy organization; health care organization; accredited health care facility; or an accredited college or university; or
    - (2) Be submitted by the program sponsors or the applicant to the Board for review no less than sixty (60) days prior to the date of the presentation and be approved by the Board.
- 8207.4 The Board may issue and update a list of approved continuing education programs.
- 8207.5 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.
- 8207.6 The Board may approve the following continuing education activities by an applicant:
- (a) Service as an instructor or speaker at a conference, seminar,

workshop, or in-service training;

- (b) Publication of an article in a professional journal or publication of a book or a chapter in a book or publication of a book review in a professional journal or bulletin; and
- (c) Participation in research as a principal investigator or research assistant.

## **8208 CONTINUING EDUCATION CREDITS**

- 8208.1 The Board may grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) credit hour.
- 8208.2 For approved undergraduate or graduate courses, each semester hour of credit shall constitute fifteen (15) hours of continuing education credit, and each quarter hour of credit constitutes ten (10) hours of continuing education credit.
- 8208.3 The Board may grant a maximum of ten (10) continuing education credits per year to an applicant who attends in-service education programs.
- 8208.4 The Board may grant an applicant who serves as an instructor or speaker at an acceptable program for both preparation and presentation time, subject to the restrictions set forth in §§ 8208.5 through 8208.8.
- 8208.5 The maximum amount of credit that may be granted for preparation time is twice the amount of the associated presentation time.
- 8208.6 The maximum amount of credit that may be granted pursuant to § 8208.4 is fifty percent (50%) of an applicant's continuing education requirement.
- 8208.7 If an applicant has previously received credit in connection with a particular presentation, the Board shall not grant credit for a subsequent presentation unless it involves either a different subject or substantial additional research concerning the same subject.
- 8208.8 The presentation shall have been completed during the period for which credit is claimed.
- 8208.9 The Board may grant an applicant who is an author or editor of a

published book four (4) units or forty (40) hours of continuing education credit, if the book has been published or accepted for publication during the period for which credit is claimed and the applicant submits proof of this fact in the application.

8208.10 The Board may grant an applicant who is the sole author or co-author of a published original paper, journal article or poster presentation, two (2) units or twenty (20) hours of credit, subject to the same restrictions set forth for books in § 8208.9.

8208.11 The Board may grant an applicant who is the sole author of a published book review, review paper, or abstract one (1) unit or ten (10) hours of continuing education credit, subject to the same restrictions set forth for books in § 8208.9.

## **8209           LAWFUL PRACTICE**

8209.1 A physical therapist assistant may perform physical therapy functions only in accordance with this section.

8209.2 A physical therapist assistant may perform the following functions under the direct supervision of a physical therapist:

- (a) Use of therapeutic exercise, mechanical traction, therapeutic massage, compression, heat, cold, ultraviolet, water, and electricity;
- (b) Measurement and adjustment of crutches, canes, walkers, and wheelchairs, and instruction in their use and care;
- (c) Instruction, motivation, and assistance to patients and others in improving pulmonary function, learning, and functional activities such as pre-ambulation, transfer, ambulation and daily living activities, and the use and care of orthoses, prostheses, and supportive devices;
- (d) Modification of treatment procedures as indicated by patient response and within the limits specified in the plan of care, and reported orally or in writing to the physical therapist; and
- (e) Participation in routine administrative procedures required for a physical therapist service.

8209.3 A physical therapist assistant may not perform the following:

- (a) Interpret referrals;

- (b) Perform evaluation procedures;
- (c) Initiate or adjust treatment programs; or
- (d) Assume responsibility for planning patient care.

- 8209.4 A licensed physical therapist shall be fully responsible for any actions by a physical therapist assistant performing physical therapist functions while under the physical therapist's supervision.
- 8209.5 A licensed physical therapist shall perform the final evaluation for a patient who has been treated throughout the patient's history by a physical therapist assistant.
- 8209.6 A physical therapist shall provide direct supervision to no more than three (3) physical therapist subordinates at any one time.
- 8209.7 A physical therapist shall ensure the qualifications of all physical therapist assistants under his or her supervision.
- 8209.8 Before a patient is treated by a physical therapist assistant, a licensed physical therapist shall evaluate the patient and formulate initial and ongoing treatment goals and plans.
- 8209.9 Pursuant to § 8209.8, a licensed physical therapist shall reevaluate each patient being treated by a physical therapist assistant by the seventh (7<sup>th</sup>) visit and every seventh (7<sup>th</sup>) visit thereafter.
- 8209.10 Support personnel shall only perform routine assigned tasks under the direct supervision of a licensed physical therapist or a licensed physical therapist assistant, who shall only assign those tasks or activities that are nondiscretionary and do not require the exercise of profession judgment.
- 8209.11 A physical therapist assistant shall comply with the standards of ethical and professional conduct established by the recognized professional program which is approved by the Board, as they may be amended or republished from time to time.

## 8299 DEFINITIONS

- 8299.1 As used in this chapter, the following terms shall have the meanings ascribed:

**Applicant** – a person applying for a license to practice as a physical

therapist assistant under this chapter.

**Board** – the Board of Physical Therapy, established by section 209 of the Act (D.C. Official Code § 2-1202.09).

**Continuing education unit** – a unit of measurement representing ten (10) hours of continuing education credit.

**Direct supervision** - the supervision in which a physical therapist is personally present and immediately available within the treatment area to give aid, direction, and instruction when physical therapy procedures or activities are performed.

**Physical therapist** – a person licensed to practice physical therapy under the Act.

**Physical therapist assistant** – a physical therapy assistant who is a person licensed to practice under the Act.

**Practice of physical therapy** – the independent evaluation of human disability, injury, or disease by means of noninvasive tests of neuromuscular functions and other standard procedures of physical therapy, and the treatment of human disability, injury, or disease by therapeutic procedures, rendered on the prescription of or referral by a licensed physician, osteopath, dentist, or podiatrist, or by a licensed registered nurse certified to practice as an advanced registered nurse as authorized pursuant to section 601 of the Act (D.C. Official Code § 3-1206.01), embracing the specific scientific application of physical measures to secure the functional rehabilitation of the human body. These measures include the use of therapeutic exercise, therapeutic massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any physical or mental disability, or preventing the development of any physical or mental disability, or the performance of noninvasive tests of neuromuscular functions as an aid to the detection or treatment of any human condition.

8299.2            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 rule may be obtained from the Department at the same address between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

**DEPARTMENT OF HEALTH****NOTICE OF PROPOSED RULEMAKING**

---

The Acting Director of the Department of Health ("Department"), pursuant to 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)), Mayor's Order 98-140, dated August 20, 1998, the SafeRx Amendment Act of 2008, effective March 26, 2008 (D.C. Law 17-0131; 55 DCR 4462, published on April 25, 2008) (the Act), and Mayor's Order 2008-83, dated June 11, 2008, hereby gives notice of his intent to take final rulemaking action to adopt the following new chapter 83 of Title 17 (Business, Occupations and Professions) of the District of Columbia Municipal Regulations (DCMR), entitled "Pharmaceutical Detailers," in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The adoption of Chapter 83, which had until now been reserved, is necessary to implement Title I of the Act, which requires the licensure and regulation of the practice of pharmaceutical detailing in the District of Columbia.

**Chapter 83 (Pharmaceutical Detailers) of Title 17 (Business Occupations and Professions) is added as follows:**

**8300 GENERAL PROVISIONS**

8300.1 Effective, October 1, 2008, this chapter shall apply to applicants for and holders of a license to practice pharmaceutical detailing.

8300.2 Effective April 1, 2009, a person shall be licensed under the Act before the individual may practice pharmaceutical detailing in the District of Columbia.

8300.3 A person who practices pharmaceutical detailing in the District of Columbia without a license shall be subject to a fine of up to ten thousand dollars (\$10,000.00) in addition to the other penalties and sanctions set forth in the Act and the HORA.

8300.4 Chapters 40 (Health Occupations: General Rules), and 41 (Health Occupations: Administrative Procedures) of this title shall supplement this chapter.

**8301 TERM OF LICENSE**

8301.1 Subject to § 8301.2, a license issued pursuant to this chapter shall expire at 12:00 midnight the last day of February of each even-numbered year.

8301.2 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.

**8302 EDUCATIONAL REQUIREMENTS**

- 8302.1 Except as otherwise provided in this chapter, an applicant shall furnish proof satisfactory to the Board that the applicant is a graduate of an institution of higher education recognized by the Board in accordance with § 742 of the Act, D. C. Official Code § 3-1207.42 (2001).
- 8302.2 An applicant shall submit an official certificate of graduation in a sealed envelope from the educational institution to the Board with the completed application.
- 8302.3 The Board may grant a license to practice pharmaceutical detailing to an applicant who is a graduate of an institution of higher education from a foreign country, if the institution or education program was accredited by an accrediting body recognized by the Secretary of the United States Department of Education or the Council on Postsecondary Accreditation at the time the applicant graduated.
- 8302.4 If a document required by this chapter is in a language other than English, an applicant shall arrange for its translation into English by a translation service acceptable to the Board and shall submit a translation signed by the translator attesting to its accuracy.

**8303 WAIVER OF EDUCATIONAL REQUIREMENTS**

- 8303.1 Except as provided in § 8303.2, the Board shall waive the educational requirements set forth under § 8302.1 of this chapter for an applicant for licensure who can demonstrate to the satisfaction of the Board that he or she has been performing the functions of a pharmaceutical detailer as defined in § 8399 of this chapter on a full-time, or substantially full-time, basis for at least 12 months immediately preceding March 26, 2008.
- 8303.2 The Board may extend the waiver set forth in § 8303.1 up to an additional 12 months for an applicant who was on approved leave under the Family and Medical Leave Act or the District of Columbia Family Medical Leave Act for any portion of the 12 months immediately preceding March 26, 2008. The waiver may only be extended by the actual amount of leave taken by the applicant under the Acts up to an additional 12 months.
- 8303.3 To apply for a waiver of the educational requirements set forth under § 8302.1 of this chapter, an applicant shall:
- (a) Submit a sworn statement attesting to the fact that the applicant has been performing the functions of a pharmaceutical detailer as defined in § 8399 of this chapter, for at least thirty-two (32) hours per week for

at least twelve (12) months immediately preceding March 26, 2008, which shall include:

- (1) The applicant's employers and contact information;
  - (2) The time period of practice;
  - (3) The name(s) and contact information of supervisor(s) or professional colleagues, as applicable; and
  - (4) A description of the applicant's duties; and
- (b) Submit two (2) letters of attestation from current or previous supervisors who supervised the applicant's work in pharmaceutical detailing and who can attest to the fact that the applicant has been practicing as a pharmaceutical detailer for at least twelve (12) months. If the applicant does not have at least two (2) supervisors who can provide letters, applicant may submit one letter from a professional colleague who has first-hand knowledge that the applicant has been practicing as a pharmaceutical detailer for at least twelve (12) months.

**8304 APPLICATION FOR LICENSURE**

8304.1 To apply for a license, an applicant shall:

- (a) Meet the education requirements set forth under § 8302 of this chapter or the requirements for waiver under § 8303 of this chapter;
- (b) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:
    - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
    - (ii) Provide the Board with his or her social security information once a social security number has been obtained;
  - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
  - (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as

a driver's license, as proof of identity.

- (c) Submit an official certificate of graduation in a sealed envelope from the educational institution(s) to the Board, which shall verify that the applicant meets the educational requirements set forth under § 8302 of this chapter;
- (d) Submit a notarized statement to the Board that he or she understands and agrees to abide by the requirements for the practice of pharmaceutical detailing, including the code of ethics as set forth in § 8305;
- (e) If applying by waiver, submit two (2) letters of recommendation meeting the requirements under § 8303 of this chapter; and
- (f) Pay all required fees.

## **8305 CODE OF ETHICS**

- 8305.1 A pharmaceutical detailer shall not engage in any deceptive or misleading marketing of a pharmaceutical product, including the knowing concealment, suppression, omission, misleading representation, or misstatement of any material fact.
- 8305.2 A pharmaceutical detailer shall not use a title or designation that might lead a licensed health professional, or an employee or representative of a licensed health professional, to believe that the pharmaceutical detailer is licensed to practice medicine, nursing, dentistry, optometry, pharmacy, or any other similar health occupation, in the District of Columbia, unless the pharmaceutical detailer holds an active license to practice that health occupation.
- 8305.3 A pharmaceutical detailer shall not attend patient examinations without the express, written consent of the patient.
- 8305.4 A pharmaceutical detailer shall not willfully harass, intimidate, or coerce a licensed health professional, or an employee or representative of a licensed health professional through any form of communication, including through the sending of messages of disappointment for the failure to prescribe certain medications.
- 8305.5 For purposes of § 8305.4, the Board shall use a reasonable person standard to determine whether the conduct constitutes willful harassment, intimidation, or coercion.
- 8305.6 A pharmaceutical detailer shall not continue to make sales calls upon a health professional, or an employee or representative of a health professional after the health professional prescriber has requested in writing to the pharmaceutical

detailer or the detailer's employer not to receive any further sales calls.

- 8305.7 A pharmaceutical detailer shall not offer a gift or remuneration of any kind to a member of a medication advisory committee; except that a pharmaceutical detailer may give medication samples to a member of a medication advisory committee that is also a licensed physician engaged in the practice of medicine.
- 8305.8 A pharmaceutical detailer shall not employ any inducement or misleading statements to gain access to a healthcare professional.
- 8305.9 A pharmaceutical detailer shall provide information to healthcare professionals that is accurate, fairly balanced, and consistent with FDA approved labeling.
- 8305.10 In addition to the regulations set forth under this section, any holder of a license under this chapter or any person authorized to practice pharmaceutical detailing functions under this chapter shall comply with the standards of ethical and professional conduct established by the Pharmaceutical Research and Manufacturers of America (PhRMA) in its publication entitled "PhRMA Code on Interactions With Healthcare Professionals" as it may be amended or republished from time to time. Where there is a conflict between this publication and the regulations set forth in this Chapter or the provisions of the Act, the regulations and/or Act shall control.

## **8306 CONTINUING EDUCATION REQUIREMENTS**

- 8306.1 This section shall apply to applicants for the renewal, reactivation, or reinstatement of a license.
- 8306.2 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 8307 of this chapter.
- 8306.3 An applicant for renewal of a license shall:
- (a) Have completed a minimum of fifteen (15) contact hours of approved continuing education credit during the two (2) year period preceding the date the license expires;
  - (b) Attest to completion of the required continuing education credits on the renewal application form; and
  - (c) Be subject to a random audit.
- 8306.4 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) who submits an application to reactivate a license shall submit proof pursuant to § 8306.6 of having completed fifteen (15) hours of approved continuing education credit within the two (2) year

period preceding the date of the application for reactivation of that applicant's license and an additional eight (8) hours of approved continuing education credit for each additional year that the applicant was in inactive status beginning with the third year.

- 8306.5 To qualify for a license, an applicant for reinstatement of a license shall submit proof pursuant to § 8306.6 of having completed fifteen (15) hours of approved continuing education credit obtained within the two (2) year period preceding the date of the application for reinstatement of the applicant's license and an additional eight (8) hours of approved continuing education credit for each additional year that the license was expired beginning with the third year.
- 8306.6 Except as provided in § 8306.8, 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) The name and address of the sponsor of the program;
  - (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.
- 8306.7 Beginning with the 2010 renewal period, the Board shall conduct a random audit of continuing education credits at the completion of each renewal period.
- 8306.8 Applicants for renewal of a license shall only be required to prove completion of the required continuing education credits by submitting proof pursuant to § 8603.6 if requested to do so as part of the random audit, or if otherwise requested to do so by the Board.
- 8306.9 An applicant for renewal of a license who fails to renew the license by the date the license expires may renew the license for up to sixty (60) days after the date of expiration by completing the application, submitting the required supporting documents, and paying the required additional late fee. Upon renewal, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the renewal thereof.
- 8306.10 If an applicant for renewal of a license fails to renew the license and 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. The

applicant shall thereafter be required to apply for reinstatement of an expired license and meet all requirements and fees for reinstatement.

8306.11 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 renew was for good cause. As used in this section, "good cause" includes the following:

- (a) Serious and protracted illness of the applicant; and
- (b) The death or serious and protracted illness of a member of the applicant's immediate family.

8306.12 An extension granted under this section shall not exempt the licensee from complying with the continuing education requirements for any other renewal period.

### **8307 APPROVED CONTINUING EDUCATION PROGRAMS**

8307.1 The Board may, in its discretion, approve continuing education programs that contribute to the growth of an applicant in professional competence in the practice of pharmaceutical detailing and which meet the other requirements of this section.

8307.2 The Board may approve continuing education programs that meet the requirements of § 8307.3 and provide instruction in one of the following subjects:

- (a) General medical and pharmaceutical terminology and abbreviations;
- (b) Food and Drug Administration laws and regulations pertaining to drug marketing, labeling, and clinical trials;
- (c) The cost-effectiveness of pharmacological treatments;
- (d) Therapeutic drug classes and categories;
- (e) Professional ethics;
- (f) Properties and actions of drugs and drug delivery mechanisms;
- (g) Etiologies, characteristics, and therapeutics of disease states;
- (h) Pharmacology; and
- (i) The anatomical and physiological effect of pharmaceuticals.

8307.3 To qualify for approval by the Board, a continuing education program shall be an

educational program given at a conference, a lecture, seminar, course of instruction, workshop, or on the Internet, and be prepared, offered, or administered by one of the following:

- (a) A nationally or locally accredited program provider;
- (b) A governmental unit;
- (c) A health care facility;
- (d) A pharmaceutical company; or
- (e) An institution of higher learning recognized by an accrediting body approved by the Secretary of the United States Department of Education.

8307.4 The Board may issue a list of approved continuing education programs.

8307.5 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.

8307.6 The Board may approve the following continuing education activities by an applicant:

- (a) Serving as an instructor or speaker at a lecture, conference, seminar, workshop, course of instruction, or in-service training; and
- (b) Publication of an article or book review in a professional journal or bulletin or publication of a book or chapter in a book.

## **8308 CONTINUING EDUCATION CREDITS**

8308.1 A minimum of fifty (50) minutes shall constitute one (1) credit hour.

8308.2 For approved undergraduate courses, each semester hour of credit shall constitute fifteen (15) hours of continuing education credit.

8308.3 The Board may grant credit to an applicant who serves as an instructor or speaker at an acceptable program for both preparation and presentation time, subject to the following restrictions:

- (a) The maximum amount of credit which may be granted for preparation time shall be twice the amount of the associated presentation time; and
- (b) The maximum amount of credit which may be granted pursuant to this subsection shall be fifty percent (50%) of an applicant's continuing education requirement; and

(c) The presentation shall have been completed during the period for which credit is claimed.

8308.4 The Board may grant an applicant who is an author or editor of a published book fifteen (15) continuing education credits, if the book has been published or accepted for publication during the period for which credit is claimed, and the applicant submits proof of this fact in the application.

8308.5 The Board may grant an applicant who is an author of a published original paper five (5) continuing education credits, subject to the same restrictions set forth for books in § 8308.4.

8308.6 The Board may grant an applicant who is the sole author of a published book review, review paper, or abstract, two (2) continuing education credits, subject to the same restrictions set forth for books in § 8308.4.

**8309 AUTHORITY TO COLLECT INFORMATION AND RECORD RETENTION**

8309.1 In carrying out its functions under the Act, the Board of Pharmacy and an agent acting on its behalf is authorized to collect information from licensed pharmaceutical detailers relating to their communications with licensed health professionals, or with employees or representatives of licensed health professionals, located in the District.

8309.2 Upon receipt of a verbal or written request by the Board or its agent for information pursuant to § 8309.1 of this chapter, a pharmaceutical detailer shall provide the requested information within ten (10) business days of the request.

8309.3 Refusal by a pharmaceutical detailer to provide the requested information with the time allotted shall constitute a basis for disciplinary action under 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.*)

8309.4 A pharmaceutical detailer shall retain documents and information relating to his or her communications with licensed health professionals, or with employees or representatives of licensed health professionals, located in the District for a period of five years from the date of the communication or contact.

8309.5 Within ten (10) days of leaving the employ of a pharmaceutical company, a pharmaceutical detailer shall provide written notification to the Board of his or her departure and the name, address, email, and telephone number of the

person within the company who may be contacted for retrieving the records required to be maintained under this chapter.

**8310 LICENSURE AND RENEWAL FEES**

8310.1 The fees related to pharmaceutical detailers are as follows:

(a) Initial license fee	\$175.00
(b) Biennial renewal fee	\$165.00
(c) Late fee	\$85.00
(d) Duplicate certificate	\$34.00
(e) License verification	\$34.00

**8399 DEFINITIONS**

8399.1 As used in this Chapter the following terms shall have the meanings ascribed:

**Act-** SafeRx Amendment Act of 2008, effective March 26, 2008 (D.C. Law 17-0131; 55 DCR 4462, published on April 25, 2008 (the Act), and Mayor's Order 2008-XXX, dated May XX, 2008.

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

**Board** – the Board of Pharmacy, established by § 208 of the Act, D.C. Official Code § 3-1202.08.

**Department-** Department of Health

**Director-** Director of the Department

**District of Columbia Family Medical Leave Act-** District of Columbia Family Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 et seq.)

**Family Medical Leave Act-** Family Medical Leave Act of 1993, approved February 5, 1993 (107 Stat. 7; 29 U.S.C. § 2601 *et seq.* )

**FDA-** the federal Food and Drug Administration

**HORA-** Health Occupations Revision Act of 1985, effective March 25, 1986

(D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*)

**Institution of Higher Education-** as defined in § 101 of the Higher Education Act of 1965, as amended, approved October 7, 1998 (112 Stat. 1581; 20 U.S.C. § 1001).

**Labeler-** An entity or person that receives pharmaceutical products from a manufacturer or wholesaler and repackages those pharmaceuticals for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 C.F.R. § 207.20.

**Manufacturer-** a manufacturer of pharmaceutical products and includes subsidiary or affiliate of a manufacturer.

**Marketing Representative-** an individual who is employed by or is under contract to represent a manufacturer or labeler and engages in the marketing of pharmaceutical products in the District to any person or entity licensed to provide health care in the District.

**Medication Advisory Committee-** any committee or panel that is responsible for making recommendations or decisions regarding a formulary to be used by a health program administered by the government of the District of Columbia.

**Pharmaceutical Company-** any entity that is engaged in, either directly or indirectly, the production, preparation, propagation, compounding, manufacturing, conversion or processing of a drug or biologic product, including any person acting as its agent or representative.

**Pharmaceutical Product-** a drug or biologic regulated by the federal Food and Drug Administration.

**Practice of Pharmaceutical detailing-** the practice by a representative of a pharmaceutical manufacturer or labeler of communicating in person with a licensed health professional, or an employee or representative of a licensed health professional, located in the District of Columbia, for the purpose of selling, providing information about, or in any way promoting a pharmaceutical product.

**Prescriber-** a person who is licensed, registered, or otherwise authorized by the District to prescribe and administer prescription drugs in the course of a professional practice.

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.

**D.C. DEPARTMENT OF HUMAN RESOURCES****NOTICE OF PROPOSED RULEMAKING**

The Director, D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with section 1103 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.03) (2006 Repl.), as amended by D.C. Law 17-135, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Amendment Act of 2008 (Act), effective March 26, 2008 (D.C. Act 17-286, 55 DCR 1683, February 5, 2008), hereby gives notice of the intent to adopt the following rules, upon their approval by the Council of the District of Columbia (Council), and in not less than thirty (30) days from the publication of this notice in the *D.C. Register*. These rules would amend Chapter 11, Classification and Compensation, of Title 6 of the D.C. Municipal Regulations DCMR), to add a new section 1155, *Operation Enduring Freedom and Operation Iraqi Freedom Pay Differential*, to the chapter. The rules would permanently add provisions granting authorization for the payment of a pay differential to District government employees called to active duty from reserve units of the United States Armed Forces as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom. The Act requires that rules be issued to implement its provisions. Because Council approval of these rules is required, a rulemaking approval resolution has been submitted to the Council for that purpose, along with these rules. Upon adoption, these rules will amend Chapter 11, Classification and Compensation, of Title 6 of the DCMR, published at 28 DCR 2318 (May 22, 1981), and amended at 29 DCR 1225 (March 19, 1982), 37 DCR 6361 (October 5, 1990), 39 DCR 2072 (March 27, 1992), 47 DCR 2421 (April 7, 2000), 48 DCR 4179 (May 11, 2001), 48 DCR 5004 (June 1, 2001), 52 DCR 934 (February 4, 2005), and 52 DCR 2729 (March 18, 2005).

**CHAPTER 11****CLASSIFICATION AND COMPENSATION**

*A new section 1155 is added to Chapter 11 of the D.C. Personnel Regulations, to read as follows:*

**1155 OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM PAY DIFFERENTIAL**

- 1155.1 (a) Any full-time permanent employee, term employee, or an employee on a Temporary Appointment Pending Establishment of a Register (TAPER) who serves in a reserve component of the armed forces and who has been ordered to

active duty, or was retained for duty as a result of Operation Enduring Freedom, or in preparation for a potential conflict with Iraq, or as a result of Operation Iraqi Freedom, shall be entitled to apply for and receive, or continue to receive, as applicable, a pay differential to compensate the employee for any difference between the employee's District government basic pay and basic military pay.

- (b) For the purposes of this section, the phrase "any full-time permanent employee, term employee, or an employee on a Temporary Appointment Pending Establishment of a Register (TAPER)" in section 1151.1 (a) of this section, shall include at-will employees.
- 1155.2 An employee as described in section 1155.1 of this section shall not be required to be released from active duty before making application for and receiving the pay differential. However, if the employee has not been released from active duty when he or she makes application for the pay differential, the employee shall provide all documentation required in section 1155.9 of this section, except that in lieu of providing a copy of the military orders releasing the employee from active duty, the employee shall provide a letter from his or her commanding officer attesting to the fact that the employee, as of the date of application for the pay differential, is still in an active duty status.
- 1155.3 A pay differential received pursuant to this section shall not be considered basic pay for any purpose.
- 1155.4 Any eligible employee, upon making application for the pay differential and upon approval of the application by his or her department or agency head, shall receive a pay differential that equals the difference between the employee's District government basic pay reduced by the employee's basic military pay.
- 1155.5 The estate of any eligible employee who has been killed while in active duty or who is missing in action as a result of active duty shall be eligible to collect any pay differential to which the employee would have been entitled upon making application on behalf of the employee and upon approval of the application by the employee's department or agency head.
- 1155.6 The period of entitlement to the pay differential shall not exceed:
- (a) The period following the formal inception of Operation Enduring Freedom through the date the employee is released from active duty occasioned by Operation Enduring Freedom; or
- (b) The period following the formal inception of the preparations for a potential conflict with Iraq and the period following the formal inception of Operation

Iraqi Freedom through the date the employee is released from active duty occasioned by, the preparation for, or, Operation Iraqi Freedom.

- 1155.7 The pay differential shall not be payable for any period following the employee's release from active duty and the employee's return to his or her District government position.
- 1155.8 The pay differential shall not be payable for any days for which the employee received pay by reason of any annual leave, military leave, compensatory time, or any other form of paid leave taken by the employee.
- 1155.9 In making application for the pay differential, the employee shall:
- (a) Provide a copy of the military orders activating the employee for full-time active military service for the Operation Enduring Freedom conflict, or, in preparation for, or, as a result of, the Operation Iraqi Freedom conflict;
  - (b) Provide a copy of the military orders releasing the employee from full-time active military service for the Operation Enduring Freedom conflict, or, for the preparation for, or, the Operation Iraqi Freedom conflict; and
  - (c) Provide all military pay documentation required to calculate the differential amount.
- 1155.10 A pay differential under this section shall be paid by the agency that last employed the eligible employee before the employee was ordered to active duty as specified in section 1155.1 of this section, out of the agency's funds or appropriations then currently available for salaries and expenses.

#### **1155.99 DEFINITIONS**

**Active duty** – full-time duty in the active military service of the United States for the Operation Enduring Freedom conflict, or, in preparation for, or, for the Operation Iraqi Freedom conflict.

**Armed forces** – has the meaning prescribed in 10 U.S.C. § 101 (a)(4).

**Basic military pay** – the basic pay under 37 U.S.C. § 204.

**Basic pay** – the employee's scheduled rate of pay plus any additional pay that is defined as basic pay for annuity computation purposes in the retirement system in which the employee is a participant.

**Employee** – any full-time permanent employee, term employee, or an employee on a TAPER appointment who serves in a reserve component of the United States Armed Forces and who has

been called to active duty as a result of the Operation Enduring Freedom conflict, or in preparation for, or as a result of the Operation Iraqi Freedom conflict.

**Operation Enduring Freedom** – the period encompassed within Executive Order 13223 Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation, effective September 14, 2001, and amended by Amendment to Executive Order 13223, effective January 16, 2002 and ending on the date the employee is released from active duty occasioned by Operation Enduring Freedom.

**Operation Iraqi Freedom** – the period encompassed within the Joint Resolution entitled Authorization for Use of Military Force Against Iraq Resolution of 2002, approved October 16, 2002 (P.L. 107-243) and ending on the date the employee is released from active duty occasioned by Operation Iraqi Freedom.

**Reserve component** – has the meaning prescribed in 37 U.S.C. § 101 (24).

Comments on these proposed regulations should be submitted, in writing, to Ms. Brender L. Gregory, Director, D.C. Department of Human Resources, 441 4<sup>th</sup> Street, N.W., Suite 330S, Washington, D.C. 20001, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed regulations are available from the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, D.C. 20005

**NOTICE OF PROPOSED RULEMAKING**

**FORMAL CASE NO. 1061, IN THE MATTER OF THE APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY FOR A CERTIFICATE OF AUTHORITY  
AUTHORIZING IT TO ISSUE DEBT SECURITIES AND PREFERRED STOCK**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Sections 2-505, 34-502 and 34-503 of the District of Columbia Official Code,<sup>1</sup> that it intends, in not less than 30 days from the date of publication of this Notice in the D.C. Register ("publication date"), to take final action on the application of Washington Gas Light Company ("WGL" or "Company") for a certificate of authority to issue debt securities and preferred stock.<sup>2</sup>

2. On June 13, 2008, WGL filed its Application seeking authority to issue and sell one or more series of debt securities or preferred stock in an aggregate amount not to exceed \$356,500,000 during the three-year period beginning October 1, 2008.<sup>3</sup> WGL made the filing under the Commission's expedited review process outlined in 15 DCMR § 3500 *et seq.*

3. WGL indicates in its Application that it plans to use the proceeds from the financing for, among other things, the refunding of maturing long-term debt and the advance refunding of long-term debt as market conditions permit.<sup>4</sup> In addition, the Company indicates that it plans to use the proceeds for general corporate purposes including capital expenditures, acquisition of property, working capital requirements, and retirement of short-term debt.<sup>5</sup>

4. WGL's Application and supporting documentation are on file with the Commission and may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday or may be viewed on the Commission's website at [www.dcpssc.org](http://www.dcpssc.org). Copies of the Application are available, upon request, at a per-page reproduction fee.

5. Any person desiring to comment on the Application should do so in writing and direct those comments to Dorothy Wideman, Commission Secretary, at the above address, and shall

<sup>1</sup> See D.C. Code §§ 2-505 (a), 34-502 and 34-503 (2001).

<sup>2</sup> *Formal Case No. 1061, In the Matter of the Application of Washington Gas Light Company for a Certificate of Authority Authorizing it to Issue Debt Securities and Preferred Stock ("F.C. 1061")*, filed June 13, 2008 ("WGL's Application").

<sup>3</sup> *F.C. 1061*, WGL's Application at 1-2.

<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.* at 3.

set forth therein the specific grounds for each comment. Any such representation must be made on or before 30 days after publication of this notice in the *D.C. Register*. Any replies to such comments shall be made no later than 35 days after publication of this Notice, after which time the Commission will take final rulemaking action on WGL's Application.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005

**NOTICE OF PROPOSED RULEMAKING**

**GAS TARIFF 08-1, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY  
FOR THE AUTHORITY TO AMEND ITS GENERAL SERVICE PROVISIONS,  
RESIDENTIAL SERVICE AND NON-RESIDENTIAL RATE SCHEDULES, FIRM  
DELIVERY SERVICE AND INTERRUPTIBLE RATE SCHEDULES**

1. The Public Service Commission of the District of Columbia ("Commission") pursuant to its authority under D.C. Official Code § 2-505,<sup>1</sup> hereby gives notice of its intent to act upon the proposed tariff of Washington Gas Light Company ("WGL") in not less than forty-five (45) days after the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On June 2, 2008, WGL filed a Tariff Application requesting authority to revise the Residential, Non-Residential, and Interruptible Rate Schedules and establish a new General Service Provision. Specifically, WGL proposes to amend the following tariff pages:

**RESIDENTIAL SERVICE RATE SCHEDULE  
Nos. 1 & 1A**

**NON-RESIDENTIAL RATE SCHEDULE  
Nos. 2 & 2A**

**INTERRUPTIBLE RATE SCHEDULE  
Nos. 3 & 3A**

and to establish the following new rate schedule:

**GENERAL SERVICE PROVISION  
No. 26**

3. According to WGL, the proposed tariff amendment will allow it to implement a Revenue Normalization Adjustment ("RNA").<sup>2</sup> In the Application, WGL explains the RNA as a billing adjustment mechanism which decouples the Company's non-gas revenues collection from actual delivered volumes of gas.<sup>3</sup>

<sup>1</sup> D.C. Official Code § 2-505 (2001 Ed.).

<sup>2</sup> *GT08-1, In the Matter of Washington Gas Light Company for the Authority to Amend its General Service Provisions, Residential Service and Non-Residential Rate Schedules, Firm Delivery Service and Interruptible Rate Schedules*, ("Tariff Application"), filed June 2, 2008.

<sup>3</sup> *GT08-1*, Tariff Application at 3.

4. WGL asserts that the Tariff Application is filed in concurrence with the Non-Unanimous Agreement of Stipulation and Full Settlement approved by the Commission in Formal Case No. 1054 and Order No. 14712 issued by the Commission in Formal Case No. 1053.<sup>4</sup> WGL avers that the RNA will be applied to customers' bills in conjunction with the Distribution Credit Adjustment ("DCA")-both mechanisms applied to the customers' base tariff distribution rate. WGL states the billing adjustment factor will be computed and applied to a customer's base tariff distribution rate on a monthly basis and will create a credit or charge to the monthly distribution charge for firm and interruptible customers.<sup>5</sup>

5. WGL maintains that the proposed tariff language will better align its rate structure with its cost structure and will allow the company to receive a level of revenues consistent with the revenue requirement established in the company's most recent rate case.<sup>6</sup> The RNA, according to WGL will remove the disincentive for the company to promote energy conservation efforts, thereby providing benefits to customers. Furthermore, WGL asserts that the RNA would help customers avoid price spikes and higher than expected distribution charges, and allow customers to receive more accurate price signals.<sup>7</sup>

6. The proposed tariff amendment may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's website at [www.dcpssc.org](http://www.dcpssc.org). Copies of the tariff are available upon request, at a per-page reproduction cost.

7. All persons interested in commenting on the proposed tariff must submit written comments to Dorothy Wideman, Commission Secretary, at 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005. Comments must be received no later than thirty (30) days after the date of publication of this NOPR in the *D.C. Register*. Persons who wish to file reply comments may do so no later than forty five (45) days after the date of publication of this NOPR in the *D.C. Register*. Once the comment and reply comment periods have expired, the Commission will take final rulemaking action.

---

<sup>4</sup> *Id.*

<sup>5</sup> *GT08-1*, Tariff Application at 5 and 29.

<sup>6</sup> *GT08-1*, Tariff Application at 2.

<sup>7</sup> *GT08-1*, Tariff Application at 2, 7 and 14.

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in sections 2 and 3 of the District of Columbia Nonresident Tuition Act, approved September 8, 1960 (74 Stat. 854; D.C. Official Code §§ 38-302 and 38-303) (2007 Supp), and section 3(b)(3) of the District of Columbia State Education Office Establishment Act of 2000, October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*)(2007 Supp.), hereby gives notice of its intent to amend, in not less than (30) thirty days following the publication date of these proposed rules in the *D.C. Register*, subsection 2008.13 of Chapter 20 of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), entitled "Non-Resident Tuition Rates." The purpose of the proposed amendment is to establish a formula to calculate non-resident tuition, which shall be equal in any given school year to the District of Columbia's Uniform Per Student Funding Formula per pupil allocations for the same school year. This proposal would, accordingly, also serve to establish the tuition rate for school year 2008-2009 for non-resident students attending District of Columbia public schools including public charter schools.

**5 DCMR § 2008.13 is amended to read as follows:**

2008.13        The following shall be used to determine the non-resident tuition rates currently in effect for public and charter schools in the District of Columbia:

- a) Non-resident tuition rates apply to all non-resident students enrolling in a District of Columbia Public School, including a District of Columbia Public Charter School.
- b) The rates for non-resident students attending a District of Columbia Public School, including a Public Charter School, shall be equal to the District of Columbia's Uniform Per Student Funding Formula per pupil allocations, including any applicable supplemental allocations, that are applied to operating budget appropriations for District of Columbia Public Schools and Public Charter Schools.
- c) The rates may be pro-rated to reflect the portion of the school year during which the non-resident student will be enrolled.
- d) The rates in this regulation apply to non-resident students enrolled in a regular school program of the District of Columbia Public Schools or a Public Charter School in the District of Columbia. Some schools may offer services that are not considered part of the regular school program, and participation in such programs may require payment of additional fees.

Persons wishing to comment on these proposed rules should submit their comments in writing to Deborah A. Gist, State Superintendent of Education, 441 4<sup>th</sup> Street, NW, Room 350N, Washington, D.C. 20001, Attn: Hom Raj Acharya, Education Program Specialist, Policy, Research & Analysis. All comments must be received by the Office of the State Superintendent

of Education not later than thirty (30) days after publication of this notice in the DC Register. Copies of this proposed rulemaking amendment and related information may be obtained by writing to the above address, or by calling the Office of the State Superintendent of Education at (202) 727-6436.

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(11)) (2007 Supp) (SEOE Act), and Article II, Sections 1 and 4 of An Act to provide for compulsory school attendance, and for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§ 38-202 and 38-205) (2001), hereby gives notice of her intent to publish for a second time proposed regulations adding a new Chapter 52 of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), entitled "District of Columbia Home Schooling." The purpose of the new chapter is to establish procedural rules for home schooling for District of Columbia residents from age 5 until a child reaches the age of 18 years.

A notice of proposed Home Schooling regulations was published in the *D.C. Register*, 55 DCR 5281, on May 2, 2008, providing a 30 day public comment period ending on June 2, 2008. The propose rules reflected discussions and testimony presented at a regularly scheduled State Board of Education ("SBOE") meeting and a public hearing. The proposed rules were also posted on the Office of the State Superintendent of Education ("OSSE") website at [osse.dc.gov](http://osse.dc.gov).

Following the comment period, the State Board held two public working sessions in June 2008 to discuss the comments and consider possible revisions. Over 2800 emails and written comments and 400 phone calls were received from across the United States with 16 written comments from District of Columbia residents. In light of these comments and the public testimony received, the proposed rules have been revised and are being issued for further public comment.

The proposed regulations expand the administrative procedures available to parents and legal guardians to resolve differences with regard to home schooling compliance. In the event of a dispute, the proposed regulations add a specific process for parents and legal guardians to meet with the OSSE, about their home schooling program. In addition, the regulations also include an administrative appeal process giving parents and legal guardians an opportunity to appeal in writing to the State Superintendent of Education. Moreover, in direct response to comments, a final decision will include a statement reminding parents and legal guardians of their right under District law to appeal a final administrative decision to the Superior Court of the District of Columbia. The proposed regulations further clarify that nothing in the regulations is intended to require regular and periodic reviews of all home schooling portfolios.

The District of Columbia has a statutory responsibility to assure that children between the ages of five and seventeen, residing in the District of Columbia, receive an education. The proposed regulations seek to balance this mandate with a choice for parents and legal guardians to provide a thorough and regular education in a home schooling program. The proposed regulations provide a framework to differentiate bona fide home schooling programs from instances where a child may not receive a regular and thorough education.

Pursuant to section 6(a) of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-505(a))(2001), the State Superintendent of Education has determined that in view of the previous period of comment, the public meetings of the SBOE on these rules, the scheduled SBOE public meeting on these rules on July 16, 2008, and the need to ensure that a regulatory framework for the benefit and well being of the District's children is in place for the 2008 – 2009 school year, there is good cause to shorten the time for filing comments to these proposed rules and that comments may be filed up to and including July 14, 2008. These proposed regulations will also be posted on the OSSE website.

## CHAPTER 52 DISTRICT OF COLUMBIA HOME SCHOOLING

### Sections

5200	General Provisions
5201	Home Schooling Administration
5202	Written Notification
5203	Annual Verification and Discontinuation
5204	Home Schooling Program
5205	Educational Materials
5206	Review of Educational Materials
5207	Parent or Legal Guardian Qualifications
5208	Compliance, Review and Final Resolution
5209	Voluntary Participation in Standardized Testing
5210	Enrollment in District of Columbia Public Schools
5299	Definitions

### **5200 GENERAL PROVISIONS**

- 5200.1 The provisions of this chapter are issued pursuant to Section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176, D.C. Official Code § 38-2601. *et seq.*) (2007 Supp.) (SEOE Act), and Article II, sections 1 and 4 of an Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§ 38-202 and 38-205) (2001).
- 5200.2 Student records, documents, correspondence, and other materials received in accordance with the provisions of this chapter shall be reviewed pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; the Code of Federal Regulations (CFR) 34 CFR Part 99, and any other applicable District or federal confidentiality laws or regulations.
- 5200.3 The purpose of this chapter is to establish procedures for home schooling in accordance with the District of Columbia's school attendance and reporting laws and the SEOE Act, to ensure that children participating in a home schooling

program receive thorough, regular education that will enable them to function as productive members of society in the 21<sup>st</sup> century.

**5201 HOME SCHOOLING ADMINISTRATION**

5201 The Office of the State Superintendent of Education (OSSE) shall administer and implement the District of Columbia's Home Schooling regulations set forth in this chapter.

**5202 WRITTEN NOTIFICATION**

5202.1 A parent or legal guardian who chooses to provide home schooling in the District of Columbia shall provide written notification on an official form developed by the OSSE which:

- (a) Indicates consent to the requirements in this chapter; and
- (b) Shall be submitted to the OSSE at least 15 days, not including Saturdays, Sundays, or District holidays, prior to the first date of home instruction.

**5203 ANNUAL VERIFICATION AND DISCONTINUATION**

5203.1 For each year in which a home schooling program continues, the parent or legal guardian shall file a Home Schooling Notification Form identifying each child being home schooled, no later than August 15<sup>th</sup> of each year,

5203.2 A parent or legal guardian shall notify the OSSE in writing of any discontinuation of home schooling for any reason 15 days, not including Saturdays, Sundays, or District holidays, prior to discontinuation of home schooling.

**5204 HOME SCHOOLING PROGRAM**

5204.1 The home schooling program for each student shall:

- (a) Provide thorough, regular instruction of sufficient duration to implement the home school program; and
- (b) Provide instruction that includes, but need not be limited to, language arts, mathematics, science, social studies, art, music, health, and physical education.

5204.2 Nothing in this chapter shall be interpreted to require that home schooling should include programs or methods used by the District's public schools. Nor shall any home schooling program be required to adhere to specific curricular frameworks or any other program of instruction adopted by the District's public schools.

**5205 EDUCATIONAL MATERIALS**

- 5205.1 A parent or legal guardian who chooses to administer a home schooling program shall maintain a portfolio of home schooling materials for each child which includes evidence of the child's current work, such as examples of the child's writings, worksheets, workbooks, creative materials, assessments, or any other materials that demonstrate that the child is engaged in thorough, regular educational activities in a range of subjects.
- 5205.2 The portfolio should be maintained for at least one year and made available for review by the OSSE upon written request.

**5206 REVIEW OF EDUCATIONAL MATERIALS**

- 5206.1 The OSSE may, at its discretion, request to review the portfolio of home schooling materials described in Section 5205, provided that the following requirements are met:
- (a) The request is made in writing;
  - (b) The review is held at a time and place mutually agreeable to the representative of the OSSE and the parent or legal guardian;
  - (c) There are not more than two (2) reviews conducted during a school year; and
  - (d) The purpose of the review is to ensure that the child is receiving thorough, regular home schooling instruction, consistent with this chapter.

Nothing in this section shall be interpreted to require a regular periodic review of all portfolios.

**5207 PARENT OR LEGAL GUARDIAN QUALIFICATIONS**

- 5207.1 Parents or legal guardians who wish to be their children's instructors must have a high school diploma or its equivalent.
- 5207.2 A parent or legal guardian who wishes to provide home schooling instruction and does not have a high school diploma or its equivalent may petition the OSSE for a waiver of section 5207.1. Such petition must provide evidence of the petitioner's ability to provide thorough, regular education.

**5208 COMPLIANCE, REVIEW, AND FINAL RESOLUTION**

- 5208.1 If upon review of the home instruction portfolio, the OSSE determines that a student is not receiving thorough, regular education consistent with the

requirements set forth in this chapter, the OSSE shall provide a written Notification of Deficiencies to the parent or legal guardian, within 30 days of the review, not including Saturdays, Sundays, or District holidays.

- 5208.2 A parent or legal guardian must respond in writing to the written Notification of Deficiencies no later than 30 days, not including Saturdays, Sundays, or District holidays, after the date of the written Notification of Deficiencies; and provide the OSSE with a Corrective Action Plan with evidence that each deficiency has been or is being corrected. The parent or legal guardian may request a meeting with the OSSE before the Corrective Action Plan is due, to present evidence of compliance or otherwise discuss the deficiencies identified by the OSSE.
- 5208.3 The OSSE shall notify the parent or legal guardian in writing of the acceptance of the Corrective Action Plan with evidence that a deficiency has been corrected, or the need for further modification consistent with this chapter:
- a. The OSSE shall respond within 15 days of the date of the Plan, not including Saturdays, Sundays, or District holidays;
  - b. The parent or legal guardian may request and the OSSE shall grant a meeting to discuss the OSSE response to the Plan; and
  - c. The parent or legal guardian shall implement the Plan as approved by the OSSE.
- 5208.4 In the event the Corrective Action Plan fails to correct deficiencies, and the home schooling program therefore does not conform to the requirements of this chapter, the OSSE shall issue a Letter of Non-Compliance, which shall state the basis for its determination of non-compliance. Each Letter shall include a statement about the parent's or legal guardian's ability to seek review of the Letter with an appeal in writing to the State Superintendent of Education and the right to judicial review of a final decision by the State Superintendent of Education.
- 5208.5 An appeal to the State Superintendent of Education involving the Letter of Non-Compliance must be filed with the OSSE within 15 calendar days of the date of the Letter.
- 5208.6 A final decision issued by the State Superintendent of Education shall include a statement that the final decision may be appealed by the parent or legal guardian, to the Superior Court of the District of Columbia pursuant to D.C. Official. Code § 11-921 (a)(6).
- 5208.7 Within 45 days of the date of a final decision issued by the State Superintendent of Education, requiring the parent or legal guardian to enroll the child or children in a public or non public school, the parent or legal guardian shall enroll the child or children in a public or non public school, unless the action is stayed by court order.

**5209 VOLUNTARY PARTICIAPATION IN STANDARDIZED TESTING**

5209.1 A child receiving home schooling may participate free of charge in the regularly scheduled standardized testing programs that are administered in the public school the child is eligible to attend.

**5210 ENROLLMENT IN A DISTRICT OF COLUMBIA PUBLIC SCHOOL**

5210.1 Upon application of a child to enroll in a District of Columbia public school from a home schooling program, placement of the child and any credits to be awarded toward high school graduation shall be determined by evaluation. The evaluation may include administration of standardized tests, other examinations, and interviews with the child.

**5299 DEFINITIONS**

For the purposes of this chapter, the term:

“Home Schooling” means an education program conducted, in compliance with this chapter, by the parent or legal guardian;

“OSSE” means the Office of the State Superintendent of Education, including any authorized OSSE designee.

“Parent or Legal Guardian” means a person having legal custody of a child or children; and

“Public School” means a District of Columbia public school, including public charter schools.

Persons wishing to comment on these proposed regulations should submit their comments in writing to Deborah A. Gist, State Superintendent of Education, 441 4<sup>th</sup> Street, NW, Room 350N, Washington, D.C., 20001, and Attn: Ms. Stephanie Thomas, Private/Home School Specialist, Policy and Research Analysis. All comments must be received by the Office of the State Superintendent of Education not later than July 14, 2008. This proposed regulations and related information are available on the OSSE website at [osse.dc.gov](http://osse.dc.gov) and may be obtained by writing to the above address, or by calling the Office of the State Superintendent of Education at (202) 727-6436.