

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code § 47-2853.10(a)(12), and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of the adoption of amendments to 17 DCMR Chapter 37 (Barber and Cosmetology). This rulemaking will correct citations to the District of Columbia Municipal Regulations, modify the title of a section, and prohibit licensees from displaying the traditional "barber pole" in advertising unless the licensee possesses a current barbering license or leases space or a booth to a licensed barber in accordance with the requirements of Chapter 37. These rules were previously published as a proposed rulemaking in the *D.C. Register* on May 30, 2008. No comments were received in response to that notice and no changes have been made. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 17 DCMR Chapter 37 is amended as follows:

Section 3702.1 is amended to read as follows:

3702.1 The following licenses or certificates of registration shall be issued to natural persons as required by the Barber and Cosmetology Board pursuant to D.C. Official Code § 47-2853.08 (2001):

- (a) Barber;
- (b) Cosmetology operator;
- (c) Specialty cosmetology operators, which include:
 - (1) Braider;
 - (2) Electrologist;
 - (3) Esthetician (Aesthetician); and
 - (4) Manicurist
- (d) Barber, Cosmetology, or Specialty Salon Manager;
- (e) Barber, Cosmetology, or Specialty Salon Owner;
- (f) Instructors;
- (g) Demonstrators; and
- (h) Barber, Cosmetology, or Specialty Independent Contract Owner as regulated by 17 DCMR § 3720 et seq., "Booth Rentals/Chair Rentals/Space Renting."

Section 3723 is amended to read as follows:

3723. BOARD APPROVAL OF BARBER AND COSMETOLOGY SCHOOLS

- 3723.1 All schools are required to be licensed by the Education Licensure Commission, as set forth in 16 DCMR Chapter 12.
- 3723.2 All schools must maintain a current license from the Education Licensure Commission.

A new section 3728 is added to read as follows:

3728 ADDITIONAL ADVERTISING RESTRICTIONS ON LICENSEES

- 3728.01 It shall be unlawful for any person licensed under this chapter to depict a barber pole in advertising or to place a barber pole in a location that would create or tend to create the impression to members of the public that a business located at or near the barber pole is a barbershop unless the licensee holds the licenses required to operate a barbershop or the licensee leases space or a booth to a licensed barber pursuant to Section 3720 of this chapter.

Section 3799.1 is amended as follows:

- (a) The definition of "barbering" is amended to read as follows:

Barbering -- any one of any combination of the following practices when done upon the head and neck for cosmetic purposes only, and when done for payment either directly or indirectly, or without payment for the public generally constitutes the practice of barbering within the meaning of this chapter. Barbering includes; shaving and/or trimming the beard, cutting the hair of any person of either sex for compensation or other consideration, received by the person performing the service, as well as giving facial and scalp massage or treatments with oils creams, lotions, or other preparations either by hand or mechanical appliances; singeing, shampooing, or applying tonics to the hair; or applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions, to the scalp, face, or neck. Barbering shall not include manicuring, electrology, braiding, or weaving of hair.

- (b) Add the following new definition:

Barber pole -- a pole or cylinder with alternating stripes of any combination including but not limited to red and white or red white and blue which run diagonally along the length of the cylinder or pole; or any depiction, rendering, or other representation of a "barber pole" that appears in any form, which would create the impression to members of the general public that a business located near the object is a barbershop.

DEPARTMENT OF MENTAL HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Mental Health pursuant to the authority set forth in sections 105 and 114 of the Department of Mental Health Establishment Amendment Act of 2001 (Act), effective December 18, 2001, D.C. Law 14-56, D.C. Official Code §§ 7-1131.05 and 7-1131.14 (2005 Supp.) and D.C. Law 5-48, D.C. Official Code § 21-521, hereby gives notice of his intent to adopt the following rules governing certification of Department of Mental Health Officer-Agents, to be contained in Chapter 76 of Title 22 of the District of Columbia Municipal Regulations (DCMR), entitled "Department of Mental Health Officer-Agent Certification." There have been no substantive changes since publication of the proposed rules. These final rules will be effective upon publication of this notice in the *D.C. Register*.

The purpose of these rules is to establish a Department of Mental Health Committee to oversee the Officer-Agent Certification process and to establish the requirements for individuals to become certified Department of Mental Health Officer-Agents in the District of Columbia.

**TITLE 22, CHAPTER 76, DEPARTMENT OF MENTAL HEALTH
OFFICER-AGENT CERTIFICATION.****7600 PURPOSE AND APPLICATION**

7600.1 These rules establish an Officer-Agent Certification Committee and the requirements for individuals to become certified Department of Mental Health (DMH) Officer-Agents in the District of Columbia.

7600.2 These rules apply to DMH and other District agencies, mental health providers and individuals who seek Officer-Agent Certification.

7601 GENERAL PROVISIONS

The Department of Mental Health (DMH) certifies eligible individuals as accredited Officer-Agents in the District of Columbia. An Officer-Agent has the authority, when there is reason to believe that a person is mentally ill and, because of such illness, is likely to injure self or others if is not immediately detained, to:

- (a) Without a warrant, take the person into custody;
- (b) Transport the person to a public or private hospital, or to the DMH; and
- (c) Complete the Form FD-12 to make application for the person's admission thereto (FD-12 Application).

7602 DMH OFFICER-AGENT ELIGIBILITY

7602.1 DMH will train and certify eligible persons to be accredited DMH Officer-Agents.

7602.2 To be eligible for certification as an accredited DMH Officer-Agent a person must be one of the following:

- (a) (i) A qualified practitioner with a mental health provider approved by DMH; or
- (ii) A paramedic nominated by the District of Columbia Fire and Emergency Medical Services Agency (FEMS), or be nominated by another District agency approved by DMH as needing DMH Officer-Agents; or
- (b) (iii) A DMH staff member from a DMH program approved by the DMH Chief Clinical Officer as needing DMH Officer-Agents; and
- (b) Approved by the DMH Officer-Agent Certification Committee (OACC).

7603 DMH OFFICER-AGENT CERTIFICATION TRAINING REQUIREMENTS

7603.1 DMH Officer-Agent Certification Training shall be conducted by a psychiatrist and an attorney both of whom must be licensed to practice in the District of Columbia and be approved by the DMH OACC.

7603.2 The DMH Officer-Agent Certification training shall include:

- (a) Reviewing the clinical definition of "mental illness;"
- (b) Determining when a mental illness is likely to cause a person to injure self or others;
- (c) Assessing risk of harm and level of functioning;
- (d) Defining cultural competency;
- (e) Reviewing the process of applying for admission for emergency observation pursuant to D.C. Official Code Section 21-521, Emergency Hospitalization through preparation of a valid FD-12 application; and

(f) Testifying in court regarding an FD-12 application.

7603.3 DMH Officer-Agent Certification Training shall be offered at least twice a year.

7604 **DMH OFFICER-AGENT CERTIFICATION**

7604.1 After an eligible person successfully completes the DMH Officer-Agent Certification Training, the eligible person will be certified for a period of up to two (2) years (subject to his or her continued employment with the nominating mental health provider, District Agency, or DMH program).

7604.2 Each DMH Officer-Agent will be issued a certificate and a photo identification with a two (2) year expiration date.

7604.3 DMH Officer-Agents may be required to repeat the DMH Officer-Agent Certification Training prior to the expiration of their two (2) year certification in order to be recertified.

7605 **DMH OFFICER AGENT CERTIFICATION COMMITTEE**

7605.1 DMH shall establish an Officer-Agent Certification Committee (OACC) to provide peer review, quality control of the FD-12 applications, and Officer-Agent certification process.

7605.2 The OACC shall be chaired by the DMH Chief Clinical Officer or designee.

7605.3 The OACC shall be comprised of no more than twelve (12) members appointed by the DMH Chief Clinical Officer.

7605.4 At least five (6) of the OACC members shall be government representatives from the following offices:

- (a) DMH Chief Clinical Office
- (b) DMH Community Services Agency
- (c) DMH Comprehensive Psychiatric Emergency Program
- (d) DMH Homeless Outreach
- (e) DMH Mental Health Litigation Section
- (f) District Fire and Emergency Services

7605.5 The DMH Chief Clinical Officer may appoint up to six (6) members who are non-government mental health providers

7605.6 The OACC shall:

- (a) Approve curriculum for the certification;
- (b) Ensure nominees meet the eligibility criteria for certification;
- (c) Maintain a central registry of DMH Officer-Agents in the District of Columbia;
- (d) Meet as needed, as determined by the chair of the OACC, to review and evaluate FD-12 applications and the certification process;
- (e) Recommend recertification of Officer-Agents if appropriate; and
- (f) Make recommendations for revocation of Officer-Agent certification to the DMH Chief Clinical Officer.

7605.7 Members who are not government employees shall be appointed for terms of 3 years.

7605.8 Members shall serve without compensation.

7606 **DMH CHIEF CLINICAL OFFICER AUTHORITY**

7606.1 The DMH Chief Clinical Officer shall have the authority to:

- (a) Determine the total number of persons to be certified as DMH Officer-Agents;
- (b) Revoke an Officer-Agent certification; and
- (c) Determine which DMH programs, mental health providers, and District agencies, other than DMH, may have DMH Officer-Agents.

7607 **DMH OFFICER-AGENT REPORTING REQUIREMENTS**

7607.1 District agencies, mental health providers, and DMH programs that employ DMH Officer-Agents will:

- (a) Maintain a list of current DMH Officer-Agents in their employment;
- (b) Maintain a copy of all FD-12 applications completed by their respective Officer-Agents; and

- (c) Provide copies of all FD-12 applications completed by their respective Officer-Agents to the OACC upon request.

7607.2

DMH Comprehensive Psychiatric Emergency Program (CPEP) will:

- (a) Maintain a copy of all FD-12 applications that it receives; and
- (b) Provide copies of all completed FD-12 applications that it receives to the OACC on a monthly basis.

7608

DEFINITIONS

7608.1

When used in this chapter, the following terms and phrases shall have the meanings ascribed:

“Certification” – successful completion of DMH Officer-Agent Training and a determination that a person has met requisite qualifications established by the OACC.

“CPEP” – DMH Comprehensive Psychiatric Emergency Program.

“District” – District of Columbia.

“DMH Officer -Agent” – a person who has been certified by DMH pursuant to DCMR Title 22, Chapter 76.

“FD-12” – Application form used for emergency admission for observation and diagnosis.

“Mental Health Provider” - any individual or entity, public or private, that is licensed or certified by the District of Columbia to provide mental health services or mental health supports, or any individual or entity, public or private, that has entered into an agreement with DMH to provide mental health services or mental health supports.

“Mental Illness” - a psychosis or other disease which substantially impairs the mental health of a person.

“Qualified Practitioner” – (i) a psychiatrist; (ii) a psychologist; (iii) an independent clinical social worker; (iv) an advanced practice registered nurse; (v) a registered nurse; (vi) a licensed professional counselor; (vii) an independent social worker; and (viii) an addiction counselor.

“Revoke” – to nullify or cancel DMH Officer-Agent certification.