

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99, D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 43 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 proposed rules is to update the dental hygiene regulations so that they reflect current advances and progress made in the field.

Chapter 43 (Dental Hygiene) of Title 17 DCMR (Business, Occupations & Profession) (May 1990) is amended as follows:

Section 4310 is amended to read as follows:

4310 FUNCTIONS OF DENTAL HYGIENISTS

- 4310.1 In accordance with § 102(4) of the Act, D.C. Official Code § 3-1201.02(4), a dental hygienist may perform the following functions under the general supervision of a licensed dentist, in his or her office or any public school or institution rendering dental services:
- (a) A preliminary dental examination; a complete prophylaxis, including the removal of any deposits, diseased crevicular tissue, accretion, or stain from the surface of a tooth or a restoration; the polishing of a tooth or a restoration;
 - (b) The charting of cavities during preliminary examination, prophylaxis, or polishing;
 - (c) The application of a medicinal agent to a tooth for a prophylactic purpose and the application of therapeutic agents;
 - (d) The taking of a dental X-ray;
 - (e) The instruction of individuals or groups of individuals in oral health care;
 - (f) The application of pit and fissure sealants; and
 - (g) The performing of a screening to identify indications of oral abnormalities.
- 4310.2 In addition to the functions listed in § 4310.1, a dental hygienist may perform the

following functions under the direct supervision of a licensed dentist, as authorized by § 102(4)(A)(vi) of the Act, D.C. Official Code § 3-1201.02(4)(A)(vi):

- (a) Assisting in the administration of nitrous oxide;
- (b) Monitoring the administration of nitrous oxide;
- (c) Placement of periodontal dressings;
- (d) Placement of temporary restorations;
- (e) Removal of temporary restorations;
- (f) Removal of periodontal dressings;
- (g) Removal of sutures;
- (h) Taking of study cast impressions; and
- (i) Placement and removal of rubber dams.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not less 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., 4th 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 5:00 p.m., Monday through Friday, excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 70 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 proposed rules is to clarify the application process by eliminating the ability of an applicant to become licensed by waiving the national examination.

Chapter 70 (Social Work) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended as follows:

Section 7012 is repealed.

All persons wishing to comment on the proposed rulemaking shall submit written comments no 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., 4th 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. Monday through Friday, excluding holidays, at the address listed above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1133 H STREET, 200 WEST, N.W.
WASHINGTON, D.C. 20005

NOTICE OF PROPOSED RULEMAKING

**GT97-3, IN THE MATTER OF THE APPLICATION OF WASHINGTON
GAS LIGHT COMPANY FOR AUTHORITY TO ADD NEW AND
AMEND EXISTING TARIFFS**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,¹ of its intent to act upon the Revised Tariff Page for Rate Schedule No. 6, "*Interruptible Distribution Delivery Service Gas Supplier Agreement*," re-filed by Washington Gas Light Company ("Washington Gas"). The Commission will take final rulemaking action upon the revised tariff page in not less than 10 days from the date of publication of this Notice of Proposed Rulemaking in the *D.C. Register* regarding the following tariff page:

Interruptible Distribution Delivery Service Gas Supplier Agreement

P.S.C. D.C. No. 3

Second Revised Page No. 27I

Superseding First Revised Page No. 27I

2. Washington Gas filed its original application for authority to amend two existing tariffs on February 14, 2003.² Specifically, Washington Gas proposed administrative modifications in the rate schedule by removing references to firm rates in Rate Schedule No. 6, Availability Sections E and F, and replacing them with "applicable rates under Rate Schedule No. 3."³ On July 31, 2003, Washington Gas re-filed its Rate Schedule No. 6, "*Interruptible Distribution Delivery Service Gas Supplier Agreement*," in accordance with Order No. 12792.⁴ On April 4, 2003, the Commission issued a Notice

¹ D.C. Code, 2001 Ed. § 2-505.

² See GT97-3, *In the Matter of the Application of Washington Gas Light Company, District of Columbia, for Authority to Add New and Amend Existing Tariffs*, Letter to Sanford M. Speight, Acting Commission Secretary, from Bernice K. McIntyre, Senior Counsel, filed February 14, 2003.

³ See GT97-3, *In the Matter of the Application of Washington Gas Light Company, District of Columbia, for Authority to Add New and Amend Existing Tariff*, Rate Schedule No. 6, P.S.C. of D.C. No. 3, Second Revised Page No. 27I, and Superseding First Revised Page No. 27I, Availability Sections E and F, issued August 1, 2003, and filed July 31, 2003.

⁴ See See GT97-3, *In the Matter of the Application of Washington Gas Light Company, District of Columbia, for Authority to Add New and Amend Existing Tariffs*, Order No. 12792, rel. July 17, 2003. (The Commission approved Rate Schedule No. 3A, "*Interruptible Delivery Distribution Service*," filed February 14, 2003, in its entirety.)

of Proposed Rulemaking.⁵ Initial and supplemental comments were filed by the Office of the People's Counsel⁶ and reply comments from Washington Gas on June 10, 2003.⁷ No other comments were filed with the Commission.

3. The Commission subsequently issued Order No. 12792 and approved in part and rejected in part, Washington Gas's request to amend Rate Schedule No. 6, "Small Commercial Aggregation Pilot" as filed. Because the Commission did not fully approve Rate Schedule No. 6, the Commission required that Washington Gas re-file a revised tariff consistent with the directives in Order No. 12792, before complete approval could be granted.

4. Section 2-505(a) of the D.C. Code provides that the 30-day notice period is mandatory "except as otherwise provided by the Mayor or the agency upon good cause found and published with the notice."⁸ An agency can publish a proposed rulemaking notice that indicates that final rulemaking action to adopt rules will be taken in an abbreviated timeframe (less than 30 days) as long as there is justification for the shorter time period. Because purely administrative modifications were made to a previously filed tariff amendment that was reviewed after a full 30-day notice period, good cause exists to shorten the notice period. Additionally, the shortened timeframe permits interruptible suppliers and customers the opportunity to familiarize themselves with the new requirements prior to the proposed effective date of September 3, 2003. Therefore, the comment period is shortened to 10 days from the date of publication of this Notice of Proposed Rulemaking in the *D.C. Register*.

5. The complete text of the revised tariff page is on file with the Commission. Copies of the revised tariff page can be viewed at the Office of the Commission Secretary, 1333 H Street., NW, Suite 200, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. A copy of the proposed tariff page is available, upon request, at a per page reproduction fee. Comments on the revised tariff page, setting forth the specific grounds for each representation, should be made in writing to Sanford M. Speight, Acting Commission

⁵ See 50 D.C. Reg. 2609 (2003).

⁶ See GT97-3, *In the Matter of the Application of Washington Gas Light Company, District of Columbia, for Authority to Add New and Amend Existing Tariffs*, Comments of the Office of the People's Counsel ("OPC Comments"), filed May 5, 2003 and GT97-3, *In the Matter of the Application of Washington Gas Light Company, District of Columbia, for Authority to Add New and Amend Existing Tariff*, Supplemental Comments of the Office of the People's Counsel ("OPC Supplemental Comments"), filed May 28, 2003.

⁷ See GT97-3, *In the Matter of the Application of Washington Gas Light Company, District of Columbia, for Authority to Add New and Amend Existing Tariffs*, Reply Comments of Washington Gas Light Company to the Office of the People's Counsel's Supplemental Comments, filed June 10, 2003.

⁸ D.C. Code, 2001 Ed. § 2-505(a).

Secretary, at the above address. Comments must be received within ten (10) days of publication of the Notice in the *D.C. Register*. The tariffs will become effective upon the date of publication of this Notice of Final Rulemaking in the *D.C. Register*.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION
PANEL ON RATES AND RULES**

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth in §§ 8(b)(1)(B) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(B) and 50-308(b)), hereby gives notice of its proposed rulemaking action taken April 1, 2003, to amend § 801 of Chapter 8 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The proposed rulemaking will allow a minimum age of twelve (12) years for all minors riding unaccompanied by an adult in taxicabs. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The Panel proposed to amend and renumber § 801 of Chapter 8 in Title 31 DCMR to read as follows:

801 PASSENGER RATES

- 801.10 The word "passenger" shall not include one child five (5) years of age or younger accompanied by an older person.
- 801.11 The minimum age for a minor riding unaccompanied by an adult in a taxicab may be no less than twelve (12) years old. The fare for the unaccompanied minor as stated here shall be the rate established by the Commission as displayed on the chart as set forth in § 801.1.
- 801.12 Any trip originating or terminating on a street designated as a zone or subzone boundary, or at premises having a street address on and being served by a private driveway from the street, shall be considered as originating or terminating in the zone or subzone nearest the point of origin or termination.

Any person desiring to file written comments on the Panel's proposed rulemaking action must do so not later than thirty (30) days after the publication of this notice in the District of Columbia Register. Comments should be filed with Kimberly A. Lewis, Attorney Advisor and Secretary, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. Copies of the proposed rulemaking may be obtained by writing to the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 03-25
(Text Amendment-- Section 3045 -- 11 DCMR)

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in §§ 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641.01 & 6-641.03) (2001 Ed.), and 11 DCMR § 3030 (Consent Calendar), hereby gives notice of the intent to amend Subsection 3045.1 of the Zoning Regulations (11 DCMR). The proposed amendment will increase the fees for black and white copies of the Zoning Map, and establish a fee for a color copy of the Zoning Map, in order to cover the costs of reproducing those maps. Because these actions are minor in nature, intended to merely adjust the fees to reflect existing production costs, no hearing is required pursuant to 11 DCMR § 3030. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Title 11 DCMR, Chapter 30, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, Section 3045, MISCELLANEOUS FEES, Subsection 3045.1, paragraphs (c) and (d) are amended to read as follows:

(c) A black and white copy of the Zoning Map shall cost ten dollars (\$10); and

(d) A color copy of the Zoning Map shall cost sixty dollars (\$60).

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Alberto Bastida, Office of Zoning, 441 4th Street, N.W., Suite 220-S, Washington D.C. 20001. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. A copy of this proposal may be obtained, at cost, by writing to the above address.

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code, § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 9 of Title 29 DCMR, "Public Welfare," a new section 942. These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for family training services provided by qualified professionals to participants with mental retardation in the Home and Community Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver). These rules also establish Medicaid reimbursement rates for family training services.

The Centers for Medicare and Medicaid Services (CMS), formerly the federal Health Care Financing Administration has advised the District that the maintenance and expansion of family training services to persons with mental retardation and developmental disabilities is essential to the continuation of the Waiver. These rules establish standards governing the provision of family training services. A substantially similar notice of emergency and proposed rulemaking was published February 21, 2003, at 50 DCR 1780, which expired on April 18, 2003. This notice includes a change limiting this service to 52 sessions per year and supersedes the previously published notice.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of family training services.

The emergency rulemaking was adopted on August 5, 2003, and will become effective on the date of publication of this notice of emergency rulemaking in the D.C. Register. The emergency rules will expire on December 3, 2003, or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

The Director gives notice of his intent to take final rulemaking action to adopt these emergency and proposed rules in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Title 29 DCMR is amended by adding a new section 942, to read as follows:

942 FAMILY TRAINING SERVICES

- 942.1 The Medicaid Program shall reimburse for family training services for each participant with mental retardation in the Home and Community Based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.

- 942.2 Family training services are training and counseling services for the families of clients.
- 942.3 Family training services eligible for reimbursement shall include the following services:
- (a) Instruction about treatment regimens;
 - (b) Training on the use of equipment specified in the individual habilitation plan (IHP) or the individual support plan (ISP);
 - (c) Training on understanding the needs of the client;
 - (d) Counseling to address the psychosocial needs of the family;
 - (e) Training to prepare a family to make informed choices and to coordinate services for its family member; and
 - (f) Follow-up training necessary to safely maintain the client at home.
- 942.4 Family training services shall not exceed fifty-two (52) training or counseling sessions per year.
- 942.5 Family training services shall be authorized by the client's interdisciplinary team and provided in accordance with each client's IHP or ISP.
- 942.6 Each provider of family training services shall:
- (a) Be a non-profit organization, home health agency, social service agency, or other business entity;
 - (b) Have a current District of Columbia Medicaid Provider Agreement for the provision of services that authorizes the provider to bill for family training services under the Waiver;
 - (c) Maintain a copy of the most recent IHP or ISP approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);
 - (d) Ensure that all family training services staff are qualified and properly supervised;
 - (e) Ensure that the service provided is consistent with the client's IHP or ISP;
 - (f) Offer the Hepatitis B vaccination to each person providing direct care services pursuant to these rules;

- (g) Provide training in infection control procedures consistent with the requirements of the Occupational Safety and Health Administration, U.S. Department of Labor as set forth in 29 CFR 1910.1030;
- (h) Provide training to the families in the frequency and duration of care as delineated in the IHP/ISP; and
- (i) Maintain documentation in each client's clinical record regarding the initial assessment of the family's training needs, the goals to be accomplished, the training provided on each visit, and the outcome of each training.

942.7 Each person providing family training services shall:

- (a) Be licensed to practice independent social work, independent clinical social work, professional counseling, occupational therapy, physical therapy, psychology, or registered nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*); or
- (b) Be licensed to practice his or her profession within the jurisdiction where services are provided; or
- (c) Be a special education teacher with a Master's Degree in Special Education with an emphasis in developmental disabilities from an accredited college or university and experience working with persons with mental retardation and developmental disabilities.

942.8 Each person providing family training services shall meet all of the following requirements:

- (a) Be at least eighteen (18) years of age;
- (b) Be acceptable to the client;
- (c) Demonstrate annually that he or she is free of communicable diseases as confirmed by an annual PPD Skin Test or documentation from a physician stating that the person is free of communicable diseases;
- (d) Be able to communicate with the client;
- (e) Be able to read and write the English language;
- (f) Complete required training;
- (g) Have the ability to provide family training services consistent with the

client's IHP or ISP; and

- (h) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code § 44-551 *et seq.*), and the rules implementing the act.

942.9 The billable unit of service shall be one (1) hour. The reimbursement rate for family training services shall be sixty dollars per hour (\$60.00/hr.) for the initial service and fifty dollars per hour (\$50.00/hr.) for any follow-up services.

942.99 **DEFINITIONS**

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

Client -an individual with mental retardation who has been determined eligible to receive services under the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

Communicable disease- that term as set forth in section 201 of Chapter 2 of Title 22, District of Columbia Municipal Regulations.

Family- one or more persons related to a client by blood, marriage, or some other legal relationship, such as a foster family, who live with or provide care to a client, and may include parents, spouse, children, relatives, foster family, or in-laws. This term does not include individuals who are employed to care for the client.

Individual Habilitation Plan or IHP-that plan as set forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.03).

Individual Support Plan or ISP-the successor plan to the individual habilitation plan as defined in the court-approved Joy Evans Exit Plan.

Comments on the proposed rules should be sent in writing to Wanda Tucker, Interim Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, not later than thirty (30) days from the date of publication of this notice in the D.C. Register. Copies of the proposed rules may be obtained from the same address Monday through Friday between the hours of 8:15 A.M. and 4:45 P. M..