

CHILD AND FAMILY SERVICES AGENCY

NOTICE OF FINAL RULEMAKING

The Interim Director of the Child and Family Services Agency ("CFSA"), acting pursuant to section 2(o) of the Child and Family Services Agency Establishment Amendment Act of 2000, effective April 4, 2001, D.C. Law 13-277, D.C. Official Code § 4-1303.03 (2006 Supp); section 106 of the Grandparent Caregivers Pilot Program Establishment Act of 2005, effective March 8, 2006, D.C. Law 16-69; Mayor's Order 2006-38, dated March 20, 2006; and section 3 of the Safe and Stable Homes for Children and Youth Amendment Act of 2007, D.C. Law 17-21, effective September 21, 2007 hereby gives notice of the adoption of amendments to Chapter 68 of Title 29 DCMR, "Grandparent Caregivers Pilot Program Subsidies". Final action to adopt these rules was taken on November 25, 2008. Notice of Emergency and Proposed Rulemaking was published in the D.C. Register on April 11, 2008 at 55 DCR 3966. These final rules will be effective upon publication in the D.C. Register.

29 DCMR § 6802.1 is amended as follows:

Paragraph (b) is amended to read as follows:

(b) The applicant is the grandparent, great-grandparent, great-aunt, or great uncle of the child or was the grandparent, great-grandparent, great-aunt, or great-uncle of the child prior to adopting the child.

Paragraph (c) is amended to read as follows:

(c) The applicant has been the child's primary caregiver for at least the previous six (6) months;

Paragraph (e) is amended to read as follows:

(e) The child's parent has not resided in the applicant's home for at least the most recent six (6) continuous months; provided that a parent may reside in the home without disqualifying the applicant from receiving a subsidy if:

- (1) The parent has designated the applicant to be the child's standby guardian pursuant to Chapter 48 of Title 16 of the D.C. Official Code;
- (2) The parent is a minor enrolled in school; or
- (3) The parent is a minor with a medically verifiable disability that prevents him or her from caring for the child;

Paragraph (f) is amended by striking "§ 6804" and substituting "§ 6805" in its place.

Paragraph (g) is amended by striking “§ 6804” and substituting “§ 6805” in its place.

Paragraph (k) is amended by striking “§ 6806” and substituting “§ 6807” in its place.

A new paragraph (l) is added to read as follows:

(l) The applicant is not currently receiving a guardianship or adoption subsidy for the child.

29 DCMR § 6803.2 is amended as follows:

Paragraph (a) is amended to read as follows:

(a) The application form, which shall include a signed statement, sworn under penalty of perjury, that all information provided in the application packet is true and accurate to the best belief of the applicant;

Paragraph (c) is amended to read as follows:

(c) Proof that the applicant is the primary caregiver as provided in § 6804;

Paragraph (h) is amended to read as follows:

(h) Proof that the child’s parent has not resided in the applicant’s home for at least the most recent six (6) months or proof of the following:

- (1) The parent has designated the applicant to be the child’s standby guardian pursuant to Chapter 48 of Title 16 of the D.C. Official Code;
- (2) The parent is a minor enrolled in school; or
- (3) The parent is a minor with a medically verifiable disability that prevents him or her from caring for the child;

29 DCMR § 6803.5 is amended as follows:

A new § 6803.5 is added to read as follows:

6803.5 Any statement under this section made with knowledge that the information set forth therein is false shall be subject to prosecution as a false statement under D.C. Official Code § 22-2405(a) and punishable by a fine of not more than \$1,000 or imprisonment for not more than 180 days, or both.

29 DCMR §§ 6804 through § 6809 are renumbered as §§ 6805 through § 6810 and a new section § 6804 is added to read as follows:

6804 DOCUMENTATION OF STATUS AS PRIMARY CAREGIVER

6804.1 The applicant shall demonstrate that he or she is the primary caretaker of the child by providing at least one of the following documents:

- (a) A court order granting custody of the child to the applicant;
- (b) A court order granting the applicant standby guardianship of the child, pursuant to D.C. Official Code §§ 16-4801 – 4810; or
- (c) A decree stating that the applicant has adopted the child.

6804.2 If the applicant is unable to provide any of the documents listed in 29 DCMR § 6804.1(a) through (c), the applicant may demonstrate that he or she has been the primary caretaker of the child by providing documentation required in § 6804.3 and at least one of the following documents:

- (a) Records showing that the applicant enrolled the child in school the current or previous school year or is the primary educational contact for the child;
- (b) Immunization or medical records indicating that the applicant is tending to the medical needs of the child. The records provided must be no older than two years old;
- (c) Proof that the applicant has received either Supplemental Security Income or TANF for the child; or
- (d) A letter from any legal, medical, military, law enforcement, social service or similar professional, or the applicant's landlord describing the applicant's status relevant to the child.

6804.3 If the Applicant is establishing eligibility under § 6804.2, the applicant shall provide a signed, written statement that he or she has become the primary caregiver of the child because both parents are unable to fulfill the duties of a primary caretaker due to at least one of the following situations:

- (a) Death;
- (b) Incarceration;
- (c) Lack of Involvement or Abandonment or Voluntary relinquishment of physical custody;

- (d) Separation due to abuse or neglect;
- (e) Active military assignment; or
- (f) Serious illness.

6804.4 The Agency reserves the right to request a home visit if probable cause exists to suspect the documents being provided are fraudulent or that the applicant has misrepresented himself or herself for the purpose of receiving the subsidy.

6804.5 If a home visit is requested, the applicant will be informed that:

- (a) The Agency representative visiting the home is a mandated reporter of child abuse or neglect and that any evidence of abuse or neglect will be reported to the child abuse hotline;
- (b) Any substantiated fraud will be reported to the Office of the Inspector General;
- (c) Upon completion of the home visit, the Agency representative will complete a report stating whether the suspicion of fraud is substantiated by a preponderance of the evidence known to the Agency;
- (d) If the suspicion is not so substantiated, the suspicion may not affect the Agency's decision regarding the application;
- (e) If the suspicion is so substantiated, the Agency may deny the application;
- (f) If the applicant does not submit to a home visit, the Agency may deny the application; and
- (g) The applicant may withdraw their application without repercussion at any time.

§ 6805.6 is amended by striking the phrase “§ 6804.4 or 6804.5” and substituting “§ 6805.4 or 6805.5” in its place.

Amend § 6806.1 as follows:

6806.1 The amount of the subsidy an applicant is eligible to receive shall be within five percent (5%) (no less than 95% and no more than 105%) of the regular daily rate of the subsidy for a long-term permanent Level 1 guardianship subsidy pursuant to Title 29 DCMR Chapter 61, less any TANF or Supplemental Security Income (SSI) benefits received for the child.

§ 6806.2 is amended by striking “§ 6807” and substituting “§ 6808” in its place.

§ 6807.3(b) is amended by striking “§ 6807” and substituting “§ 6808” in its place.

§ 6807.3(d) is amended by striking “§ 6807” and substituting “§ 6808” in its place.

§ 6807.5(b) is amended by striking “§ 6806.4” and substituting “§ 6807.4” in its place.

§ 6808.4(a) is amended to read as follows:

- (a) A signed statement, sworn under penalty of perjury, that all information provided to establish continued eligibility is true and accurate to the best belief of the recipient and that there has been no material change in circumstance since the recipient was initially determined to be eligible for a subsidy;

§ 6808.4(b) is amended to read as follows:

6808.4(b) Updated criminal background check every two years from the date of the initial application;

§ 6808.4(c) is amended to read as follows:

6808.4(c) Updated child protection register checks; and

§ 6809.1 is amended by striking “§ 6808.2” and substituting “§ 6809.2” in its place.

Amend § 6899 (Definitions) as follows:

The definition of “Child” is amended as follows: An individual who is under eighteen (18) years of age and who is or prior to being adopted by applicant was the grandchild, grand-nephew or grand-niece, as appropriate, of the applicant or recipient.

The definition of “Crime against a Child” is amended as follows:

“Crime against a Child” – A criminal offense which is comparable to:

- (a) Kidnapping of a child, except by a parent;
- (b) False imprisonment of a child, except by a parent;
- (c) Criminal sexual conduct toward a child;
- (d) Solicitation of a child to engage in sexual conduct;
- (e) Use of a child in a sexual performance;
- (f) Solicitation of a child to practice prostitution;
- (g) Any conduct that by its nature is a sexual offense against a child; or
- (h) Production or distribution of child pornography.

The following definition of “Minor” is amended as follows:

“Minor” – An individual who is under twenty-one (21) years of age.

DEPARTMENT OF HEALTH
NOTICE OF FINAL RULEMAKING

The Acting Director of the Department 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 the adoption of the following amendment to Chapter 67 of Title 17 of the District of Columbia Municipal Regulations. The purpose of the amendments is to clarify that the District examination is a jurisprudence examination and to specify the applicants that must take this examination. Notice of Proposed Rulemaking was published in the D.C. Register on October 3, 2008 at 55 DCR 010171. No comments were received and no changes have been made to the text of the rules as they were proposed. These rules shall become effective on publication in the D.C. Register.

Section 6704 of Title 17 (Business, Occupations & Professions) is amended as follows:

Sections 6704.2 and 6704.3 are amended to read as follows:

- 6704.2 An applicant for licensure by examination shall take and pass a Board approved national licensure examination in physical therapy (the national examination and a Board-approved District of Columbia jurisprudence examination (the District examination). The applicant shall have pre-approval from the Board before taking any licensure or jurisprudence examination.
- 6704.3 In addition to applicants identified in § 6704.2, the following applicants shall take and pass the District examination prior to issuance of a license if the District examination has not previously been taken:
- (a) An applicant who is seeking renewal of a license;
 - (b) An applicant who is seeking re-activation of an inactive license; and
 - (c) An applicant who is seeking reinstatement of a license.

**D.C. DEPARTMENT OF HUMAN RESOURCES
METROPOLITAN POLICE DEPARTMENT**

NOTICE OF FINAL RULEMAKING

The Director, D.C. Department of Human Resources, and the Chief, Metropolitan Police Department, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with Title XII 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 § 1-612.01 *et seq.*) (2006 Repl.), hereby gives notice that final rulemaking action was taken to adopt the following rules. These rules amend Chapter 12, Hours of Work, Legal Holidays, and Leave, of Title 6 of the District of Columbia Municipal Regulations (DCMR), to add the definition for the term "*immediate relative*" to section 1299 of the chapter. No comments were received and no changes were made under the notice of proposed rulemaking published on October 31, 2008 (55 DCR 011328). Final rulemaking action was taken on December 3, 2008.

CHAPTER 12

HOURS OF WORK, LEGAL HOLIDAYS, AND LEAVE

Section 1299 of Chapter 12 of the D.C. Personnel Regulations, Definitions, is amended to add the definition for the term "immediate relative:"

Immediate relative – an individual who is related by blood or marriage to an employee covered by this chapter as father, mother, child, husband, or wife; an individual for whom an employee covered by this chapter is the legal guardian; or the domestic partner of an employee covered by this chapter.

DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 101(b) of the Medical Malpractice Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-263; D.C. Official Code §§ 31-2703(f-1)(1)(B) and (f-1)(3)), hereby gives notice of the adoption of a new Chapter 53, Title 26 (Insurance), of the District of Columbia Municipal Regulations. The new chapter will set forth hearing rules and rate filing requirements for medical malpractice liability insurance companies.

A notice of the proposed rules was published in the *D.C. Register* on October 31, 2008 (55 DCR 11357). No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

A new Chapter 53 (Medical Malpractice Rules and Rate Filing Requirements), Title 26 (Insurance), of the District of Columbia Municipal Regulations, is established to read as follows:

**CHAPTER 53 MEDICAL MALPRACTICE LIABILITY
HEARING RULES AND RATE FILING
REQUIREMENTS**

5301 PURPOSE

5301.1 The purpose of these rules is to implement the provisions of An Act To provide for regulation of certain insurance rates in the District of Columbia, and for other purposes, approved May 20, 1948 (62 Stat. 242; D.C. Official Code §31-2701 *et seq.*), as amended by the “Medical Malpractice Amendment Act of 2006,” effective March 14, 2007 (D.C. Law 16-263; 54 DCR 807)(hereinafter the “Act”), and to safeguard the public interest by allowing reasonable inspection and analysis of medical malpractice liability company rate plans and premium rates.

5302 FILING REQUIREMENTS AND PUBLIC NOTIFICATION

5302.1 All companies licensed to write medical malpractice liability insurance in the District of Columbia are subject to the provisions of this chapter. Every company shall file with the Commissioner of the Department of Insurance, Securities, and Banking (“Department”), either directly or through a licensed rating organization of which it is a member or subscriber, all rates and rating plans, rules, and classifications which it uses or proposes to use in the District

(“rate filings”).

- 5302.2 All rate filings are required to be submitted on-line via the National Association of Insurance Commissioner’s System for Electronic Rate and Form Filing (“SERFF”). All such information requested as a part of a SERFF filing must be submitted in order for the Department to deem the rate filing complete and filed.
- 5302.3 Rate filings must be submitted at least annually. If no change is anticipated, the company should indicate that the existing approved rate filing will continue in effect.
- 5302.4 Once a rate filing is deemed filed, the Commissioner shall provide the public notice of the rate filing by either posting the rate filing on the Department’s website or by using any other means reasonably designed to provide meaningful and timely notice. The published rate filings will be identified and marked as being filed with the Department.
- 5302.5 Filed rate filings shall be deemed approved 60 days after the Commissioner has provided public notice of the filings, as provided in subsection 5302.4, unless the proposed rate change increase exceeds ten percent (10%). If the proposed rate increase exceeds ten percent (10%), then the Commissioner shall conduct a hearing on the proposed change and shall issue an order approving, denying or modifying the proposed rate change within 90 days after public notice of the proposed change.

5303 ADJUSTMENTS OF RATES

- 5303.1 Whenever it shall be made to appear to the Commissioner, either from his own information or from a complaint of any party alleging to be aggrieved thereby, that there are reasonable grounds to believe that the rates on any or on all risks or classes of risk or kinds of insurance within the scope of the Act, are excessive, inadequate or unfairly discriminatory, it shall be the Commissioner’s duty, and he or she shall have the full power and authority, to investigate the necessity for an adjustment of any or all such rates.
- 5303.2 After an investigation of the rates, the Commissioner shall, before order an adjustment, hold a hearing upon not less than 10 days written notice specifying the matters to be considered at the hearing, to every company and rating organization which filed the rates, provided, the Commissioner shall not be required to hold the hearing if he or she is advised in writing by every such company and rating organization admitted to write medical malpractice insurance in the District that they do not wish to contest the adjustment and thereby are waiving any right they may have to a hearing. The hearing shall be conducted in accordance with the hearing regulations provided at Chapter 38 of Title 26 of the District of Columbia Municipal Regulation (“DCMR”), and

the cost shall be borne by the insurance company requesting the rate increase.

- 5303.3 If, after the hearing, the Commissioner determines that any or all of the rates are excessive, inadequate or unfairly discriminatory, he or she shall order an adjustment.
- 5303.4 An order of adjustment shall not affect any contract or policy made or issued prior to the effective date of the order unless:
- (1) The adjustment is substantial and exceeds the cost to the companies of making the adjustment; and
 - (2) The order is made after the prescribed investigation and hearing and within 30 days after the filing of the rates affected.
- 5303.5 In determining the necessity for an adjustment of rates, the Commissioner shall be bound by the provisions of section 3 of the Act (D.C. Official Code §31-2703).

5304 MANDATORY HEARINGS

- 5304.1 All hearings commenced as a result of a rate change increase exceeding ten percent (10%) shall be conducted in accordance with the Department's rules of practice and procedures for hearings found at 26 DCMR §3800 *et seq.*
- 5304.2 In a hearing held by the Commissioner pursuant to this chapter, any person shall have the right to testify. However, the right to testify in a hearing under this chapter does not by itself confer upon such person the status of "party," as defined at 26 DCMR §3819.
- 5304.3 A person who wishes to apply for status as a party for a hearing shall file with the Commissioner a statement, in not less than five (5) days prior to the date set for the hearing, that includes the prospective party's name and address, the name and address of any legal counsel, whether the prospective party is a proponent or opponent of the rate filing, a list of witnesses who will be called to testify, the manner in which the prospective party may be affected or aggrieved by the action, and the extent to which the prospective party satisfies one or more of the following qualifications:
- (1) Expertise in the insurance laws of the District of Columbia;
 - (2) An understanding of the actuarial principles employed in establishing rates and rating systems;
 - (3) Sufficient access to a qualified actuary and sufficient expertise to conduct a technical examination of a rate filing;

- (4) Sufficient resources to participate in the hearing process; or,
- (5) A demonstrated commitment to represent the interest of consumers and accept a duty of fidelity to do so.

5304.4 The Commissioner shall make the final determination for status as a party.

5305 USE OF EXPERIENCE OUTSIDE OF THE DISTRICT

5305.1 If a company is filing a new or “introductory rate filing,” then the company will be permitted to use countrywide experience in support of the new product. If a company is filing to revise or adjust an existing rate but lacks actuarially credible experience for the District, then the company may use countrywide experience to supplement any of their District experience.

5305.2 Regardless of whether a filing is a new or introductory rate filing, or a revision to an existing rate, all companies must adequately explain why their experience for the District is not actuarially credible and how the experience they are using in place or as a supplement to their District experience is an appropriate substitute to support the rate filing.

5305.3 For the purposes of this section, an “introductory rate filing” shall mean an initial rate filing by a company that has not written medical malpractice liability insurance in the District, either directly or through an affiliate, within the past five-years (5) of the filing at issue. All other rate filings will be considered revisions or adjustments unless the Commissioner, upon request, expressly deems a filing to be an “introductory rate filing.”

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKINGFORMAL CASE NO. 712, IN THE MATTER OF THE INVESTIGATION OF THE PUBLIC SERVICE COMMISSION'S RULES OF PRACTICE AND PROCEDURE

1. The Public Service Commission of the District of Columbia ("Commission") pursuant to the D.C. Official Code, 2001 Ed. § 2-505 and § 34-802, hereby gives notice of final rulemaking action, repealing and adopting a new Chapter 3 of Title 15 of the District of Columbia Municipal Regulations ("DCMR"), commonly referred to as the "Consumer Bill of Rights" ("CBOR"). The Commission issued a Notice of Proposed Rulemaking ("NOPR") which was published in the *D.C. Register* on July 25, 2008, giving notice of the Commission's intent to adopt Chapter 3 of Title 15 DCMR.¹ Comments were filed in response to the NOPR; however, after reviewing all comments, the Commission determined that further revisions were unwarranted. On September 26, 2008, a Notice of Final Rulemaking ("NOFR") was published in the *D.C. Register* with an effective date of January 1, 2009.² As a result of this publication, the parties requested and the Commission subsequently granted an extension of the effective date of the new CBOR.³ The new effective date is September 25, 2009.

2. As indicated in the NOPR, the regulations update the existing CBOR, which was developed to address the provision of utility services in a traditionally regulated environment, to reflect the competitive nature of the energy and telecommunications industries and to provide appropriate safeguards for consumers who purchase services in this new, more competitive environment. The replacement of the existing rules with the new provisions will: promote administrative efficiency; create uniformity of requirements and responsibilities for the utilities, competitive energy and telecommunications service providers, and consumers; and inform members of the public of their rights and responsibilities regarding electric, natural gas, and telecommunications services in the District of Columbia. Accordingly, the Commission hereby adopts Chapter 3 of Title 15 DCMR governing the Consumer Bill of Rights as contained in the *D.C. Register* on July 25, 2008. The rules will become effective September 25, 2009. This NOFR also appears as a general notice in this same edition of the *D.C. Register*.

¹ 55 *D.C. Register* 8015-8076 (July 25, 2008). In an effort to propose comprehensive rules, the Commission previously published several NOPRs. See 51 *D.C. Register* 11065-11152 (2004); 53 *D.C. Register* 7657-7716 (2006); 54 *D.C. Register* 7292-7353 (2007); and 55 *D.C. Register* 3899-3961 (2008). The Commission considered all comments received on various provisions throughout the process and now adopts final rules.

² 55 *D.C. Register* 10014 (2008).

³ *Formal Case No. 712* ("F.C. 712"), *In the Matter of the Investigation Into the Public Service Commission's Rules of Practice and Procedure*, Order No. 15128, issued November 26, 2008.

Copies of the rules may be obtained by contacting Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, D.C. 20005. Copies may also be obtained on the Commission's website at www.dcpSC.org.

OFFICE OF TAX AND REVENUE**NOTICE OF FINAL RULEMAKING**

The Office of Tax and Revenue (OTR), pursuant to the authority set forth in the D.C. Official Code § 1-204.24c, as amended by Section 155 of the District of Columbia Appropriations Act 2001, approved November 22, 2000 (114 Stat. 2476; Pub. L. 106-522) and the Office of the Chief Financial Officer, Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to **“REPEAL”** Subsection 103.4 of Chapter 1, Income and Franchise Taxes, of Title 9 of the District of Columbia Municipal Regulations (DCMR). No changes have been made to the text of the proposed rules, as published with the Notice of Proposed Rulemaking in the D.C. Register on August 15, 2008, at 55 DCR 008898. These final rules will be effective upon publication of this notice in the Register.

Final Amendment: **“REPEAL”** the present language of 103.4.

103.4 Exempt organizations shall submit an annual report of receipts and expenditures on or before the 15th day of the fifth (5th) month following the close of the organization’s annual reporting period. A copy of the annual report submitted to the Internal Revenue Service (Form 990) is acceptable for reporting purposes under this subsection.