


Government of the District of Columbia  
Office of the Chief Financial Officer



**Natwar M. Gandhi**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Vincent C. Gray  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi   
Chief Financial Officer

**DATE:** November 5, 2010

**SUBJECT:** Fiscal Impact Statement – “Marijuana for Medical Treatment Regulation Approval Resolution of 2010”

**REFERENCE:** Draft Legislation—No Bill Number Available

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**Conclusion**

Funds are sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the provisions of the proposed resolution. The proposed resolution is estimated to have a net positive fiscal impact of \$92,650 in FY 2011 and \$558,253 over the budget and financial plan period.

**Background**

The proposed resolution would approve<sup>1</sup> the proposed rulemaking that establishes procedures for the initial implementation of the District’s medical marijuana program, namely the registration of patients and caregivers, which would be the responsibility of the Department of Health (DOH), and of dispensaries and cultivation centers, which would be the responsibility of the Mayor and a Board delegated by the Mayor. In addition, the Metropolitan Police Department (MPD) would be responsible for other related activities. The main tasks for each entity and the fee structures are detailed below.<sup>2</sup>

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<sup>1</sup> Pursuant to section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1998, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360), as amended by the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; 57 DCR 4798).

<sup>2</sup>The proposed rules also provide eligibility requirements for patients, caregivers, dispensaries and cultivation centers, as well as regulations they must abide by once registration has been granted. However, since these do not have a direct fiscal impact on the District, they are not discussed in this fiscal impact statement.

Department of Health: Patients and Caregivers

The Department of Health would be required to:

- Receive and review initial and renewal applications for patient and caregiver registration, and process required fees;
- Issue identification cards to qualifying patients and caregivers, which would contain a photo and other key information. All cards would only be good for one year;
- Provide physicians with a form they must use when recommending medical marijuana;
- Keep a confidential record of each recommending physician;
- Make available an educational training program for physicians;
- Provide written notice to a registrant prior to suspension or revocation of his or her registration;
- Forward hearing requests regarding suspension or revocation to the Office of Administrative Hearings;
- Maintain a confidential list of persons to whom they have issued registration identification cards;
- Verify the validity of a registry identification card for law enforcement personnel; and
- Provide a representative to sit on the four-person panel that would evaluate and score applications for cultivation center and dispensary registrations.

While not required, DOH could conduct announced and unannounced investigation and inspections of the cultivation centers and dispensaries.

The proposed fee structure is given below.

	<b>Full Fee</b>	<b>Reduced Fee for Low-Income Individuals<sup>3</sup></b>
Annual Patient or Caregiver ID Card (Initial or Renewal)	\$100	\$25
Replacement Card Fee	\$90	\$20

Mayor and the Board: Cultivation Centers and Dispensaries

A four-member panel consisting of a representative from DOH, MPD, the Office of the Attorney General (OAG) and a staff person designated by the Board would evaluate and score each application for cultivation center and dispensary registrations based on criteria specified in the proposed rules. They would select no more than ten cultivation centers and five dispensary registration applications, as under current law<sup>4</sup> and in the proposed rulemaking, these are the maximum numbers that can be registered to operate in the District.

As part of this process, the Mayor would be required to:

- Publish a notice of open application for cultivation center and dispensary registrations that would include the application requirements;
- Receive applications and the filing fee for dispensary and cultivation center registrations;

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<sup>3</sup> The reduced fee is available for qualifying patients or caregivers whose income is equal to or less than 200% of the federal poverty level.

<sup>4</sup> Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; 57 DCR 4798).

- Provide written notice for public comments to all Advisory Neighborhood Commissions (ANCs) in the those wards where a dispensary or cultivation center that has passed the initial four-member panel review may locate;
- Post notices on the outside of establishments indicating that an application for a cultivation center or dispensary registration has been filed; and
- Provide notice to applicants that are not selected and placard applications that are selected.

As part of this process, the Board would be required to:

- Develop and post applications on its website;
- Review applications for dispensary and cultivation center registrations to ensure they contained all of the required information. The completed applications would then be given to the four-member panel for evaluation;
- Provide a representative to sit on the four-member panel that would evaluate and score applications for cultivation center and dispensary registrations;
- Schedule a public roll call hearing to occur not less than five days after the end of the ANC comment period to hear comments regarding the potential location of a cultivation center or dispensary in the affected wards;
- Inspect the premises of qualifying cultivation centers and dispensaries prior to issuance or a registration;
- Evaluate and make final decisions on applications for cultivation center and dispensary registrations, and issue registrations;
- Develop and furnish to registrants, at the time of issuance of registration, written information describing the laws and regulations applicable to the dispensary or cultivation center's day-to-day operations;
- Provide three signs to dispensaries and one to cultivation centers;
- Receive semi-annual reports from cultivation centers and dispensaries;
- Receive and review applications, including the required fee, for director, officer, member incorporator or agent registrations; employee registrations; and manager's licenses, and issue registrations to qualifying persons;
- Receive and review letters of intent and supporting documents for those applying for a medical marijuana certification provider permit, which would allow the holder to provide a medical marijuana training and education certification program in the District, and issue said permits;
- Meet in panels of at least three members for the purpose of conducting hearings and taking official actions on medical marijuana applications;
- Conduct audits and frequent inspections of cultivation centers and dispensaries;
- Renew registrations for all entities;
- Issue permits to transport medical marijuana within the District of Columbia to registered dispensaries;
- Receive complaints from any person or an ANC in the affected ward alleging a violation by a cultivation center or dispensary, and investigate the allegations;
- Order a registration holder to appear before the Board if there is evidence supporting a reasonable belief of a violation; and
- Revoke or suspend registrations.

The proposed fee structure is given below.

	<b>Fee</b>
Dispensary registration (annual)	\$10,000
Cultivation Center registration (annual)	\$5,000
Director, officer, member, incorporator, or agent registration (annual)	\$200
Employee registration (annual)	\$75
Manager’s license (annual)	\$150
Medical marijuana certification provider registration (annual)	\$100
Replacement registration	\$25
Application processing fee for dispensary that gets chosen	\$5,000
Application processing fee for cultivation center that gets chosen	\$5,000
Application fee for dispensary or cultivation center that doesn’t get chosen	\$200
Transfer of ownership of dispensary or cultivation center	\$3,000
Transfer of location of dispensary or cultivation center	\$1,000
Change of director, office, member, incorporator or agent	\$100
Corporate or name change for dispensary or cultivation center	\$100
Transport permit (transport medical marijuana from cultivation centers to dispensaries)	\$25

Metropolitan Police Department

In addition to enforcing the laws surround medical marijuana, MPD would also be required to:

- Provide a representative to sit on the four-member panel that would evaluate and score applications for cultivation center and dispensary registrations;
- Assess security plans provided by dispensaries and cultivation centers in their applications; and
- Destroy all unused or surplus medical marijuana.

**Financial Plan Impact**

Funds are sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the provisions of the proposed resolution. The proposed resolution is estimated to increase revenues by \$245,150 in FY 2011 and \$1.3 million over the financial plan period. Implementation is estimated to cost \$152,500 in FY 2011 and approximately \$700,000 in the financial plan period. Thus the net fiscal impact of the proposed resolution is \$92,650 in FY 2011 and \$558,253 over the financial plan period. Collections in excess of the required expenditures would accrue to the general fund. A more detailed analysis by entity follows after the table.

<b>Fiscal Impact of Marijuana for Medical Treatment Regulation FY 2011 – FY 2014</b>					
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>Four-Year Total</b>
<b>Department of Health</b>					
Revenues	\$93,000	\$139,500	\$209,250	\$313,875	\$755,625
Costs	(\$70,800)	(\$71,964)	(\$73,199)	(\$74,509)	(\$290,472)
<b>Net Fiscal Impact</b>	<b>\$22,200</b>	<b>\$67,536</b>	<b>\$136,051</b>	<b>\$239,366</b>	<b>\$465,153</b>
<b>Mayor/Board</b>					
Revenues	\$152,150	\$113,050	\$123,750	\$112,750	\$501,700
Costs	(\$81,700)	(\$107,200)	(\$109,000)	(\$110,700)	(\$408,600)
<b>Net Fiscal Impact</b>	<b>\$70,450</b>	<b>\$5,850</b>	<b>\$14,750</b>	<b>\$2,050</b>	<b>\$93,100</b>
<b>TOTAL Net Fiscal Impact</b>	<b>\$92,650</b>	<b>\$73,386</b>	<b>\$150,801</b>	<b>\$241,416</b>	<b>\$558,253</b>

Department of Health: Patients and Caregivers

DOH would collect revenues from patient and caregiver registration fees. In return, it would need two FTEs to process applications and issue identification cards. DOH expects that the educational training program would be offered at a fee; thus the impact of this requirement is excluded from the estimate.

<b>Department of Health: Patients and Caregivers FY 2011 – FY 2014</b>					
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>Four-Year Total</b>
Revenues from Patient and Caregiver Registration Fees	\$93,000	\$139,500	\$209,250	\$313,875	\$755,625
Salary and Benefits for 2 FTEs	(\$70,800)	(\$71,964)	(\$73,199)	(\$74,509)	(\$290,472)
<b>Net Fiscal Impact</b>	<b>\$22,200</b>	<b>\$67,536</b>	<b>\$136,051</b>	<b>\$239,366</b>	<b>\$465,153</b>

Assumptions

- DOH would process 800 patient and 400 caregiver successful applications in FY 2011.<sup>5</sup>
- Successful registrations would increase by 50 percent in each subsequent fiscal year.
- 30 percent of applicants would pay the reduced fee.<sup>6</sup>
- FTEs are hired in January 2011 at Grade 7, Step 5.

Mayor and the Board: Cultivation Centers and Dispensaries

Since the Mayor and the Board delegated by him are both involved in the process of registering cultivation centers and dispensaries, the costs for their responsibilities are considered together. The Mayor and the Board would collect revenues from fees for cultivation centers, dispensaries, and individuals working for these entities. In order to implement the rules, the Mayor and the Board would need to employ one investigator to conduct the initial inspection of the cultivation centers and dispensaries and frequent inspections once they were registered and operating, one administrative staff to process applications and assist the Board, and a court reporter to record

<sup>5</sup> This estimate is based on data from states with medical marijuana programs: Colorado, New Mexico, Montana, Michigan, and Hawaii. However, it adjusts the trends in these states to account for changes in federal policy regarding persecution for medical marijuana, familiarity with medical marijuana, and the District’s higher HIV/AIDS population.

<sup>6</sup> According to Census data, in 2009, 33 percent of the District’s population lived at or below 200 percent of the poverty line.

hearing proceedings. They would also need to compensate the Board members for incidentals, such as meals and parking.

This estimate does not include revenues from transport or education provider permits, as they are expected to be low. Similarly, it does not include the costs of signs as they are expected to be low. Lastly, this estimate assumes that a new agency would not be created in order to implement these regulations; instead, these functions would be assigned to an already established agency.<sup>7</sup>

<b>The Mayor and the Board: Cultivation Centers and Dispensaries FY 2011 – FY 2014</b>					
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>Four-Year Total</b>
Revenues from Cultivation Center and Dispensary Fees <sup>a</sup>	\$142,800	\$102,000	\$111,000	\$100,000	\$455,800
Revenues from Individual Registrations <sup>b</sup>	\$9,350	\$11,050	\$12,750	\$12,750	\$45,900
Salary and Benefits for One Investigator <sup>c</sup>	(\$41,250)	(\$56,000)	(\$57,000)	(\$58,000)	(\$212,250)
Salary and Benefits for One Administrative Staff <sup>d</sup>	(\$30,750)	(\$41,500)	(\$42,300)	(\$43,000)	(\$157,550)
Court Reporter <sup>e</sup>	(\$1,700)	(\$1,700)	(\$1,700)	(\$1,700)	(\$6,800)
Incidentals for Board Members <sup>f</sup>	(\$8,000)	(\$8,000)	(\$8,000)	(\$8,000)	(\$32,000)
<b>Net Fiscal Impact</b>	<b>\$70,450</b>	<b>\$5,850</b>	<b>\$14,750</b>	<b>\$2,050</b>	<b>\$93,100</b>

<sup>a</sup> Includes revenue from application fees and registration fees. Assumes 50 applications are received in FY 2011 and only 6 cultivation centers and 5 dispensaries qualify; 12 applications received in FY 2012 and 2 additional cultivation centers qualify; and 7 applications received in FY 2013 and 2 final cultivation centers qualify.

<sup>b</sup> Includes revenue from director, officer, member incorporator or agent registrations; employee registrations; and manager licenses. Assumes 2 of each registration or license for each cultivation center or dispensary.

<sup>c</sup> Investigator is hired at Grade 9 in January 2011.

<sup>d</sup> Administrative staff is hired at Grade 7 in January 2011.

<sup>e</sup> Court reporter works 72 hours/year and receives \$23.60/hour.<sup>8</sup>

<sup>f</sup> Assumes an average of four Board members receive \$2,000/year.

Metropolitan Police Department

Lastly, under the proposed regulations, MPD would be required to destroy unused or surplus medical marijuana. An insignificant amount of such medical marijuana is expected to be destroyed in the first two years of the program. Beginning in FY 2013 or at a later time when there is an expectation of a significant amount, MPD would likely impose a fee on the dispensaries and cultivation centers to destroy these quantities. Given that any amount from patients or caregivers is likely to remain insignificant, MPD feels they always could destroy it without any additional resources.

<sup>7</sup> If a new agency were created, the costs would become much higher as this agency would require space, furniture and other supplies.

<sup>8</sup> Assumes Board meets for roughly 6 hours every month. Hourly rate is based on data from the Bureau of Labor Statistics’ Occupational Employment and Wages, May 2009 (<http://www.bls.gov/oes/current/oes232091.htm>).