

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2010-138
August 3, 2010

SUBJECT: Establishment of Medical Marijuana Program Pursuant to the Legalization of Marijuana for Medical Treatment Initiative of 1999, Delegation of Functions to the Director of the Department of Health, the Alcoholic Beverage Control Board, and the Chief, Metropolitan Police Department, Delegation of Rulemaking Authority to the Director of the Department of Health and the Alcoholic Beverage Control Board with Delayed Effective Date

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) and (11) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code §§ 1-204.22(6) and (11) (2009 Supp.) and the Legalization of Marijuana for Medical Treatment Initiative of 1999 (Act), effective July 27, 2010 (D.C. Law 18-210; 57 DCR 4798); it is hereby **ORDERED** that:

I. Medical Marijuana Program Established

There is established a Medical Marijuana Program which shall regulate the manufacture, cultivation, distribution, dispensing, purchase, delivery, sale, possession and administration of medical marijuana and the manufacture, possession, purchase, sale and use of paraphernalia pursuant to section 6 of the Act and this Order.

II. Delegation of Functions to the Director of the Department of Health

The Director of the Department of Health, or a designee, is delegated the Mayor's authority to:

- a) Prescribe the written form for use by recommending physicians;
- b) Require and process the registration of qualifying patients and caregivers;
- c) Issue nontransferable registration identification cards to qualified patients and caregivers;
- d) Revoke or suspend the registration identification card of any caregiver or qualified patient;

- e) Establish a system and procedures for patients and caregivers to report the loss, theft, or destruction of any medical marijuana to Department of Health;
- f) Establish procedures and forms for Department of Health to notify the Chief, Metropolitan Police and the Alcoholic Beverage Control Board of the loss, theft, or destruction of any medical marijuana;
- g) Process applications from qualifying patients seeking to purchase medical marijuana on a sliding scale from dispensaries;
- h) Require dispensaries to maintain true, complete and current records of the information contained in section 6(5) of the Act, including the name and address of qualifying patients and caregivers authorized to obtain or receive medical marijuana;
- i) Issue citations imposing civil fines, penalties, and fees for violations of the Act and its regulations by qualifying patients and caregivers;
- j) Issue citations imposing civil fines, penalties, and fees for violations of regulations issued by the Department of Health to dispensaries and cultivation centers within the authority delegated by this Order, or any authority assigned to the Department of Health by the Act;
- k) Develop educational materials about potential harmful drug interactions when using medical marijuana concurrently with other medical treatments;
- l) Provide general health information relating to use of medical marijuana;
- m) Conduct announced and unannounced investigations and inspections of cultivation centers and dispensaries for the purpose of determining the suitability of any facility or location with respect to sanitation and health, and to determine compliance with the Act and its regulations by any registered dispensary or cultivation center within the limitations described by paragraph II (j) of this Order; and
- n) Refer evidence of criminal misconduct to the Chief, Metropolitan Police Department, the Office of the Attorney General, or the United States Attorney for the District, for investigation and prosecution.

III. Delegation of Functions to the Alcoholic Beverage Control Board

The Alcoholic Beverage Control Board is delegated the Mayor's authority to:

- a) Register dispensaries, as that term is defined in section 2(7) of the Act;

- b) Register cultivation centers, as that term is defined in section 2(5) of the Act;
- c) Register directors, officers, members, incorporators, agents and employees of dispensaries and cultivation centers;
- d) Receive and evaluate applications for registration and renewal by qualified applicants;
- e) Notify Advisory Neighborhood Commissions of a proposed location of a dispensary or cultivation center and give great weight to Advisory Neighborhood Commissions regarding the registration application of dispensaries or cultivation centers, as required by the Act;
- f) Conduct announced and unannounced investigations and inspections of cultivation centers, dispensaries, applicants, and employees for the purpose of determining the suitability of any applicant or location, and to determine compliance with the Act and its regulations by any registered dispensary or cultivation center or its directors, officers, members, incorporators, agents, and employees;
- g) Establish a process for the destruction or disposal of unused or surplus medical marijuana by dispensaries or cultivation centers;
- h) Issue citations and fines, suspend, or revoke the registration of dispensaries, cultivation centers, and directors, officers, members, incorporators, agents, and employees for violations of the Act and its regulations;
- i) Require all cultivation centers and dispensaries to maintain true, complete, and current records of the information contained in section 6(4) of the Act;
- j) Refer evidence of criminal misconduct to the Chief, Metropolitan Police Department, the Office of the Attorney General, or the United States Attorney for the District, for investigation and prosecution; and
- k) The Alcoholic Beverage Control Board shall maintain and coordinate with the Metropolitan Police Department regarding the review of security plans of dispensaries and cultivation centers.

IV. Delegation of Authority to the Chief, Metropolitan Police Department

The Chief, Metropolitan Police Department, or a designee, is delegated the Mayor's authority to:

- a) Enforce any provision of the Act or its regulations, where the violation of such provision or regulation could form the basis of a criminal prosecution;
- b) Investigate the loss, theft, or destruction of any medical marijuana;
- c) Assess the security plans of dispensaries and cultivation centers;
- d) Conduct announced and unannounced investigations and inspections of cultivation centers, dispensaries, applicants, and employees for the purpose of determining the suitability of any applicant or location, and to determine compliance with the Act and its regulations by any registered dispensary or cultivation center or its directors, officers, members, incorporators, agents, and employees;
- e) Conduct background checks for directors, officers, members, incorporators, agents or employees of dispensaries or cultivation centers; and
- f) Establish inspection and audit fees for any dispensary or cultivation center for functions performed by the Metropolitan Police Department.

V. Medical Marijuana Advisory Committee Established

There is established a Medical Marijuana Advisory Committee (hereinafter “Committee”) comprised of seven (7) members. The Director of the Alcoholic Beverage Regulation Administration, the Chief of the Metropolitan Police Department, and the City Administrator shall each appoint one member, who shall be either himself or herself or a subordinate. The Director of the Department of Health shall appoint four (4) members, one member to be the Director or a subordinate, and the other three (3) members to be appointed from District residents who possess either medical or scientific expertise that the Director of the Department of Health deems would be useful to the Committee. The Director or designated subordinate of the Department of Health shall act as the chair of the Committee. All actions shall be taken pursuant to a vote of a majority of the Committee. The purposes of the Committee are to monitor best practices in other states, monitor scientific research on the use of medical marijuana, measure the effectiveness of the District’s medical marijuana program, make recommendations when the Committee is asked to consult by other agencies, and make recommendations to the Mayor and the Council by January 1, 2012, pursuant to section 10(b) of the Act.

VI. Delegation of Rulemaking Authority

- a) The Director of the Department of Health is delegated the Mayor’s authority to issue rules pursuant to the following provisions of the Act:

- 1) Section 2(2), for any necessary interpretation of the term “Bona fide physician-patient relationship” and for establishing the supporting information and record keeping requirements a physician must follow to document such a relationship;
- 2) Section 2(3), to establish registration requirements and procedures for any caregiver;
- 3) Section 2(17), to establish “any other condition” that will be recognized as a qualifying medical condition pursuant to the Act;
- 4) Section 2(18), to establish “any other treatment” that will be recognized as a qualifying medical treatment pursuant to the Act;
- 5) Section 2(20), for any necessary interpretation of the term “Residence”;
- 6) Section 4(a), after consultation with the Metropolitan Police Department, Alcoholic Beverage Control Board, and the Medical Marijuana Advisory Committee, to increase the quantity of dried marijuana to greater than 2 ounces, but fewer than 4 ounces, and to establish the quantity limits that may be possessed of medical marijuana in a form other than dried;
- 7) Section 5(b)(2), to establish a physician’s recommendation form;
- 8) Section 6(1), to establish any registration process or procedure for qualifying patients or caregivers;
- 9) Section 6(3), to establish any process or procedure for the issuance of nontransferable registration identifications cards;
- 10) Section 6(7), to establish procedures to suspend or revoke the registration of any qualified patient or caregiver;
- 11) Section 6(9), to establish sliding scale registration and annual renewal fees for any qualified patient or caregiver;
- 12) Section 6(10)(A), to establish a process to determine the eligibility of a qualifying patient to purchase medical marijuana at a reduced rate from a dispensary;
- 13) Section 6(14), to establish forms and procedures to notify the Director or designee of the loss, theft, or destruction of a registration identification card;
- 14) Section (9)(d), to establish civil fines, penalties, and fees as sanctions for any violations of the Act or its implementing regulations by: 1) qualifying

patients, caregivers, or physicians, and 2) dispensaries and cultivation centers, within the limitations described by paragraph II (j) of this Order;

- 15) Section (11)(a), to establish: 1) registration fees for qualifying patients and caregivers, and 2) inspection and audit fees for dispensaries and cultivation centers within the limitations described by paragraph II (j) of this Order; and
 - 16) Section 14(a), for the purpose of carrying out any function delegated to the Department of Health by section II of this Order.
- b) The Alcoholic Beverage Control Board is delegated the Mayor's authority to issue rules pursuant to the following provisions of the Act:
- 1) Section 6(2), to establish any registration process or procedure for dispensaries, cultivation centers, and directors, officers, members, incorporators, agents, and employees of dispensaries and cultivation centers;
 - 2) Section 6(4)(A)(v), to establish any additional information required to be maintained by dispensaries or cultivation centers;
 - 3) Section 6(4)(B), to establish procedures and forms to notify the Chief of the Metropolitan Police of the loss, theft, or destruction of any medical marijuana;
 - 4) Section 6(5), to establish procedures and forms to require dispensaries to maintain true, complete, and current records required by section 6(5);
 - 5) Section 6(7), to establish procedures to suspend or revoke the registration of any dispensary or cultivation center;
 - 6) Section 6(9), to establish sliding scale registration and annual renewal fees for dispensaries, cultivation centers, and directors, officers, members, incorporators, agents and employees of dispensaries and cultivation centers;
 - 7) Section 6(10)(B), to establish a process to require each dispensary to devote a percentage of its gross revenue for the purpose of providing medical marijuana to patients determined eligible to purchase from the dispensary based upon a sliding scale;
 - 8) Section 6(12), in consultation with the Department of Health and the Metropolitan Police Department, to establish evaluation standards for applicants of dispensaries and cultivation centers;

- 9) Section 7(d), in consultation with the Department of Health and the Metropolitan Police Department, to determine the number of cultivation centers to be registered and the number of dispensaries, in excess of 5 but less than 8, that may be registered;
- 10) Section 7(h), in consultation with the Department of Health and the Metropolitan Police Department, to establish any operating regulations required by section 7(h);
- 11) Section (9)(d), to establish civil fines, penalties, and fees as sanctions, not inconsistent with any sanctions established by the Department of Health pursuant to paragraph IV(a)(14) of this Order, for any violations of the Act or its implementing regulations by dispensaries, cultivation centers, and directors, officers, members, incorporators, agents and employees of dispensaries and cultivation centers;
- 12) Section (11)(a), to establish fees for the registration of dispensaries and cultivation centers and for the inspection or audit of dispensaries and cultivation centers;
- 13) Section 14(a)(1), in consultation with the Department of Health, to adopt manufacturing practices which cultivation centers and dispensaries shall be required to comply with to ensure that medical marijuana sold by cultivation centers and dispensaries is of pharmaceutical grade;
- 14) Section 14(a)(2), in consultation with the Department of Health and the Metropolitan Police Department, to ensure that the labeling and packaging on medical marijuana sold by cultivation centers and dispensaries provides sufficient information for qualifying patients to be able to make informed choices and that the labeling and packaging is easily identifiable for law enforcement purposes;
- 15) Section 14(a)(3), in consultation with the Department of Health and the Metropolitan Police Department, to ensure that each cultivation center and dispensary has appropriate signage and outdoor lighting, and an appropriate security system, security plan, theft prevention plan, and loss prevention plan;
- 16) Section 14(a)(4), in consultation with the Department of Health and the Metropolitan Police Department, to limit the hours during which dispensaries and cultivation centers may operate;
- 17) Section 14(a)(5), in consultation with the Department of Health and the Metropolitan Police Department, to determine the number of cultivation centers that may operate in the District;

- 18) Section 14(a)(6), to establish registration, inspection, and audit fees for any dispensary or cultivation center for functions performed by the Alcoholic Beverage Control Board;
 - 19) Section 14(a)(7), after consultation with the Metropolitan Police Department, the Department of Health, and the Medical Marijuana Advisory Committee, to establish the forms of medical marijuana that may be dispensed or distributed by dispensaries or cultivation centers; and
 - 20) Section 14(a), for the purpose of carrying out any function delegated to the Alcoholic Beverage Control Board by section III of this Order, including any reasonable operating regulations for dispensaries and cultivation centers.
- c) The Chief of the Metropolitan Police Department is delegated the Mayor's authority to issue rules pursuant to the following provisions of the Act:
- 1) Section 14(a)(6), to establish inspection, and audit fees for any dispensary or cultivation center for functions performed by the Metropolitan Police Department.
- d) The delegations of rulemaking authority covered by paragraphs a), b), and c) of this section shall not take effect until January 1, 2011.

VII. Effect of Prior Orders

This Order supersedes in whole or in part as appropriate, any previously issued Mayor's Orders to the extent such provisions are inconsistent with this Order.

VIII. Effective Date: This Order shall become effective immediately.


ADRIAN M. FENTY
MAYOR

ATTEST: 
STEPHANIE D. SCOTT
SECRETARY OF THE DISTRICT OF COLUMBIA