

**ALCOHOLIC BEVERAGE AND CANNABIS BOARD
ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION**

NOTICE OF THIRD EMERGENCY RULEMAKING

The Alcoholic Beverage and Cannabis Board (Board), pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2018 Repl.)); and Mayor's Order 2020-099, dated September 30, 2020; hereby gives notice of the adoption, on an emergency basis, of amendments to Subtitle C (Medical Marijuana) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

On January 9, 2024, the Council of the District of Columbia (Council) passed legislation which amended the District of Columbia's Medical Cannabis Program (Program) to address signage and other advertising issues. See Medical Cannabis Program Enforcement Temporary Amendment Act of 2024, effective Apr. 10, 2024 (D.C. Law 25-153; 71 DCR 2082), effective January 25, 2024 (D.C. Act 25-371; 71 DCR 1200).

Based upon the emergency legislation enacted by the Council, the Board adopted the following emergency and proposed rulemaking that is required for several reasons, including (1) clarifying how medical cannabis facilities may post signage and be advertised; (2) establishing advertising and signage guidelines for licensed and unlicensed establishments offering cannabis and medical cannabis; (3) avoiding public nuisances; and (5) preventing false and misleading advertising regarding the legal status of the cannabis and medical cannabis being offered to the public by licensed and unlicensed retailers. The Board further notes that it relied in significant part upon Title 25 of the D.C. Official Code related to alcohol for guidance, including D.C. Official Code §§ 25-763 and 25-765.

On January 31, 2024, the Board, previously by a vote of three (3) to zero (0), adopted a prior version of these emergency rules that immediately took effect on that date. The emergency rules were set to expire one hundred twenty (120) days from the date of adoption, or on Thursday, May 30, 2024, unless superseded. The Board also held a public hearing on these proposed rules on March 6, 2024, at 10:30 a.m., and no public comments were received.

On May 15, 2024, the Board, by a vote of three (3) to zero (0), adopted a second version of these emergency rules effective immediately, on that date. The emergency rules will expire one hundred twenty (120) days from the date of adoption, or on Thursday, September 13, 2024, unless superseded. These rules were published in the *D.C. Register* on July 26, 2024, at 70 DCR 009417. As part of its adoption, the Board also gave notice of its intent to adopt these proposed rules, in final, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, and upon completion of the thirty (30) day Council review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess. See D.C. Official Code § 7-1671.13(b). The proposed rules would then be deemed approved at the conclusion of the thirty (30) day review period unless the Council did not approve or disapprove the proposed rulemaking in whole or in part. See *id.* The thirty (30) day comment period for the proposed rulemaking expired on June 14, 2024. The Board did not receive any public comments during that time;

thus, making the proposed rulemaking ripe for Council review.

On September 11, 2024, the Board, by a vote of three (3) to zero (0), adopted the present Third Emergency Rulemaking that adopts the same rules adopted as part of the Second Notice of Emergency and Proposed Rulemaking and supersedes the rules contained in that adoption. The Board adopts the present rules on an emergency basis for the same reason as the prior enactments and to keep the present rules in place while Council undertakes its review.

These emergency rules will remain in effect for one-hundred and twenty (120) days of the Board vote, and shall expire on Thursday, January 9, 2025, unless superseded.

Subtitle C, MEDICAL MARIJUANA, of Title 22, HEALTH, of the District of Columbia Municipal Regulations, is amended as follows:

Chapter 58, ADVERTISING, is amended as follows:

Section 5800, SIGN ADVERTISING, is amended to read as follows:

- 5800.1 Exterior signs advertising medical cannabis may not, in the aggregate, exceed 10 square feet. The 10 square feet limit in this subsection shall not apply to signage on the exterior of the building containing a licensed establishment's trade name.
- 5800.2 Signs indicating that there is medical cannabis on the property, other than signs containing the medical cannabis business's trade name, may only be displayed in the interior window of the licensed establishment, and shall not occupy more than 25% of the window space.
- 5800.3 Signs relating to medical cannabis or indicating that there is medical cannabis on the property shall not be displayed on the exterior or interior of any door.
- 5800.4 The owner of a licensed establishment shall remove from the establishment any sign that does not conform to this section.

Section 5801, PROHIBITED STATEMENTS, is amended to read as follows:

A new subsection 5801.4 is added to read as follows:

- 5801.4 No licensed or unlicensed cannabis business shall represent that goods or services provided by the business or that the business itself is compliant with the Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014, effective February 26, 2015 (D.C. Law 20-153; D.C. Official Code passim).

Copies of the proposed rulemaking can be obtained by contacting Jonathan Berman, Assistant General Counsel, Alcoholic Beverage and Cannabis Administration, 2000 14th Street, N.W., Suite

400, Washington, D.C. 20009. Persons with questions concerning the rulemaking should contact Jonathan Berman at 202-442-4448 or email abca.legal@dc.gov. All persons desiring to comment on the proposed rulemaking must submit their written comments, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, Jonathan Berman, Assistant General Counsel, Alcoholic Beverage and Cannabis Administration, at 2000 14th Street, N.W., 4th Floor, Washington, D.C. 20009 or abca.legal@dc.gov.