



OFFICE OF THE
SECRETARY

2016 NOV 22 AM 11:40

MURIEL BOWSER
MAYOR

NOV 22 2016

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council is the "Marijuana for Medical Treatment Possession Limits Increase Rulemaking Approval Resolution of 2016," a rulemaking to amend subsections 300.9 and 300.10 of Chapter 3, and subsection 5709.1 of Chapter 57, of Title 22-C of the District of Columbia Municipal Regulations (DCMR) to increase possession to up to 4 ounces of medical marijuana.

If enacted, the proposed rulemaking will increase the amount of medical marijuana a qualifying patient or caregiver can possess within a thirty (30) day period from two (2) to four (4) ounces of dried medical marijuana, or the equivalent of four (4) ounces of dried medical marijuana in a form other than dried.

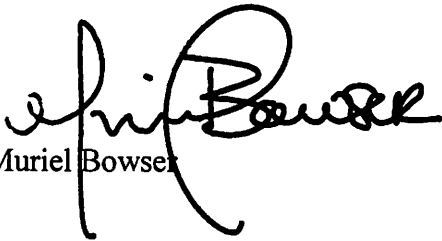
The District's Medical Marijuana Advisory Committee, through its Scientific Subcommittee and Intergovernmental Subcommittee, has recommended that the Director of the Department of Health increase the amount of medical marijuana a patient may receive within a thirty (30) day period from two (2) ounces to four (4) ounces in all forms.

The Scientific Subcommittee agreed that clinical data submitted by recommending physicians provided objective data and clinically-based evidence of the medical efficacy of medical marijuana for treatment of medical conditions. The Scientific Subcommittee found that the data generally showed decreases in patients' pain, spasms, anxiety, depression, and insomnia. Furthermore the data showed a general decrease in the use of opioids and benzodiazepines, which have long-term negative health effects, as a result of the use of medical marijuana, thereby giving physician more therapeutic options for treatment of medical conditions. Finally, the Scientific Subcommittee concluded that four (4) ounces is consistent with the amount allowed in some other states.

The Intergovernmental Subcommittee received testimony that approximately one-third (1/3) of patients of at least one dispensary were running out of their allowed amount of medical marijuana before the end of the thirty (30) day period, and that a greater quantity of medical marijuana is needed to produce edibles and juice. The Intergovernmental Subcommittee found that this testimony was persuasive.

I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser". The signature is written in a cursive style with a large, looping initial "M".

Muriel Bowser


Chairman Phil Mendelson
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution, which was referred to the Committee on _____.

To approve proposed rules adopted by the Department of Health to increase the amount of medical marijuana a qualifying patient or caregiver can possess within a thirty (30) day period from two (2) to four (4) ounces of dried medical marijuana, or the equivalent of four (4) ounces of dried medical marijuana in a form other than dried.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the “Marijuana for Medical Treatment Possession Limits Increase Rulemaking Approval Resolution of 2016”.

Sec. 2. Pursuant to section 14(b) of the Legalization of Marijuana for Medical Treatment Initiative of 1999 (Act), effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.13(b)), the Council approves the proposed rulemaking adopted by the Department of Health amending Title 22-C, Section 300 and Section 5709 of the District of Columbia Municipal Regulations to increase the amount of medical marijuana a qualifying patient and caregivers can possess within a thirty (30) day period from two (2) to four (4) ounces of dried medical marijuana, or the equivalent of four (4) ounces of dried medical marijuana in a form other than dried, based on their physician’s recommendation.

1 Sec. 3. Fiscal impact.

2 The Council adopts the fiscal impact statement in the committee report as the
3 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home
4 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
5 206.02(c)(3)).

6 Sec. 4. The Council shall transmit a copy of this resolution, upon its adoption, to
7 the Mayor, the Director of the Department of Health, and the Administrator of the Office
8 of Documents and Administrative Issuances.

9 Sec. 5. This resolution shall take effect immediately.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Sections 4(a), 7(e)(1) and 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.03(a) and 7-1671.13 (2012 Repl.)) respectively, and Mayor's Order 2011-71, dated April 13, 2011, hereby gives notice of her intent to adopt the following amendments to Subtitle C (Medical Marijuana) of Title 22 (Public Health and Medicine) of the District of Columbia Municipal Regulations, 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 period of review if the Council does not act earlier to adopt a resolution approving the rules.

This action is being taken in order to implement the provisions of Sections 4(a) and 7(e)(1) of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.03(a) and 7-1671.13 (2012 Repl.)), which allow the Mayor to increase, through rulemaking the quantity of medical marijuana that a patient may possess and that a dispensary may dispense within a thirty (30) day time period to 4 ounces, to address the needs of patients suffering from medical conditions which need to receive medical marijuana in excess of the current limit of two (2) ounces, and in consideration of the recommendations made by the Medical Marijuana Program Advisory Committee's Scientific Subcommittee and the Intergovernmental Subcommittee.

Chapter 3, USE OF MEDICAL MARIJUANA, of Title 22-C, MEDICAL MARIJUANA, is amended as follows:

Section 300, USE BY QUALIFYING PATIENT, TRANSPORTATION BY CAREGIVER, AND LIMITATIONS ON MEDICAL MARIJUANA, is amended as follows:

Subsection 300.9 is amended to read as follows:

- 300.9 The maximum amount of medical marijuana any qualifying patient or caregiver may possess at any time is:
- (a) Four (4) ounces of dried medical marijuana; or
 - (b) The equivalent of four (4) ounces of dried medical marijuana when sold in any other form.

Subsection 300.10 is repealed.

Chapter 57, PROHIBITED AND RESTRICTED ACTIVITIES, of Title 22-C, MEDICAL MARIJUANA, is amended as follows:

Section 5709, MEDICAL MARIJUANA AND PARAPHERNALIA RESTRICTIONS, is amended as follows:

Subsection 5709.1 is amended to read as follows:

5709.1 A dispensary shall not provide a qualified patient or caregiver more than four (4) ounces of dried medical marijuana, or the equivalent of four (4) ounces of dried medical marijuana in a form other than dried, either at one (1) time or within a thirty (30) day period.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Administrative Assistant, at Angli.Black@dc.gov, (202) 442-5977.


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



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: September 6, 2016

SUBJECT: Fiscal Impact Statement – Marijuana for Medical Treatment Possession
Limits Increase Rulemaking Approval Resolution of 2016

REFERENCE: Draft Resolution sent to the Office of Revenue Analysis on August 22,
2016

Conclusion

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the resolution.

Background

The legislation approves¹ proposed rules adopted by the Department of Health (DOH) to increase the amount of medical marijuana a qualifying patient or caregiver can possess within 30 days from two to four ounces (or the equivalent of four ounces of dried medical marijuana if the marijuana is in a non-dried form.)

Financial Plan Impact

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the resolution.

Once the rules go into effect, DOH expects about 30 percent of patients to increase the amount of marijuana they purchase from 2 to 4 ounces. The most likely group of patients to do this, according to DOH, would be patients who want to purchase oils and tinctures, forms of marijuana for which patients need larger amounts than they'd need in the dried form to get the same concentration of marijuana's active ingredient.

¹ Pursuant to section 14(b) 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(b)).

The Honorable Phil Mendelson

FIS: "Marijuana for Medical Treatment Possession Limits Increase Rulemaking Approval Resolution of 2016,"
Draft Resolution sent to the Office of Revenue Analysis on August 22, 2016

DOH believes it might have to renew more medical marijuana cards with the increase in the possession amount, since it's possible that patients were letting their cards lapse because they could not get sufficient amounts of marijuana. The increase in renewals should be small enough for DOH to handle with its current staff.

If some patients purchase more medical marijuana, it's possible that sales tax revenues will increase, but we can't be certain of the amount of the increase since patients who buy more marijuana might switch to a strain of marijuana that costs less.²

² For example, at Capital City Care, a dispensary of medical marijuana in D.C., prices range from \$12 - \$20 for a gram of flowers, depending on the strain. For more info see: <https://capitalcitycare.com/menu/>



Government of the District of Columbia
Department of Health



Health Regulation and Licensing
Administration

MEMORANDUM

TO: LaQuandra S. Nesbitt, MD, MPH *LN*
Director
Department of Health

FROM: Sharon Williams Lewis, DHA, RN-BC, CPM *Sh*
Senior Deputy Director
Health Regulation and Licensing Administration
Chairperson, Medical Marijuana Scientific Subcommittee

DATE: July 28, 2016

SUBJECT: Medical Marijuana Advisory Committee - Scientific Subcommittee Report
and Recommendation

BACKGROUND OF THE COMMITTEE

By Mayor's Order dated October 28, 2013, the Scientific Subcommittee was established as part of the Medical Marijuana Advisory Committee.

The Scientific Subcommittee ("Subcommittee") is charged with the following functions:

1. To Accept and review petitions for the approval of additional qualifying medical conditions and qualifying medical treatments, and to recommend in favor or against approval to the Director; and
2. To Monitor best practices in other states, monitor scientific research on the use of medical marijuana, and to make recommendations to the Director, and to the Mayor and the Council through the Director, and when asked to consult by the Intergovernmental Operations Subcommittee or other agencies.

The members of the Subcommittee are:

Sharon Williams Lewis, DHA, RN-BC, CPM, Chairperson
Daniel Perlin, MD
Yewande Johnson, MD
Andrew Robie, MD
Michael Yochelson, MD, MBA

SUBCOMMITTEE ACTIVITY

The Subcommittee held a public open session meeting on May 26, 2016, to consider whether to recommend to the Director of the Department of Health to increase the amount of medical marijuana a patient may receive within a thirty (30) day period from two (2) ounces to four (4) ounces.

Pursuant to D.C. Official Code §§ 7-1671.03(a) and 7-1671.13 (2012 Repl.), the Mayor may increase, via a rulemaking, the amount of medical marijuana from 2 ounces per 30 days to 4 ounces per 30 days. In Mayor's Order 2011-21, dated April 13, 2011, the Mayor delegated her rulemaking authority to the Director of the Department of Health. In deciding whether to increase from 2 ounces to 4 ounces, you requested the advice of the Subcommittee.

The Subcommittee heard comments from the public, which included patients, dispensary and cultivation center owners, and a recommending physician. After hearing comments from the public, the Subcommittee determined that it needed additional information from some of the recommending physicians to help the Subcommittee make a clinically-based and informed recommendation to the Director. Specifically, the Subcommittee requested information that would assist it in determining how patients are responding to medical marijuana treatment, the medical efficacy and possible effects of recommending this potential change to the Medical Marijuana Program¹.

At the Subcommittee's request, the MMP program solicited the requested information from the recommending physicians. Three (3) recommending physicians provided the requested information: Patrick Fasusi, MD, John Bedeau, MD, and Dana McGinty, MD.

The Subcommittee held a public open session meeting on June 28, 2016, to further consider what recommendation to make to the Director and to review the clinical data submitted by the

¹ The Subcommittee requested that recommending Physicians select twenty-five (25) patients to which they have recommended medical marijuana and provide the following information:

1. Patient's initials
2. Patient's age
3. Patient's gender
4. Year the patient received Medical Marijuana recommendation
5. Patient's medical diagnosis
6. Names and dosing regimen of those medications used to treat the patient's condition that the patient was on prior to taking Medical Marijuana
7. Medications and dosing regimen after the patient was in the MMP for four (4) months,
8. Medications and dosing regimen the patient is currently on as of June 2016
9. Your assessment of the patient's health status at the most recent visit compared to before starting medical marijuana, including:
 - a. Any reduction of symptoms from the patient's diagnosed condition(s);
 - b. Patient's decreased use of opioids or other medications; and
 - c. Patient's development of tolerance to Tetrahydrocannabinol (THC) or Cannabinoids.

recommending physicians. Only two (2) Subcommittee members were present, which failed to constitute the quorum required to take official action. Therefore, the Subcommittee members discussed the data, but were unable to make a recommendation.

On July 5, 2016, the Subcommittee convened via telephone conference call to finalize its review of the clinical data submitted by the recommending physicians and to make a recommendation to the Director. The meeting was open to the public and three (3) members of the public, all associated with a registered dispensary, were present in the conference room. The Subcommittee members generally agreed that the clinical data submitted by the recommending physicians provided objective data and clinically-based evidence of the medical efficacy of the use of medical marijuana for treatment of medical conditions. The Subcommittee found that the data generally shows decreases in the patients' pain, spasms, anxiety, depression, and insomnia, which it viewed as good indicators that the medical marijuana is helping the patients. Additionally, the data showed a general decrease in the use of opioids and benzodiazepines as a result of the use of medical marijuana. The Subcommittee found that these positive results and indicators give physicians more therapeutic options. The Subcommittee noted that it was good to see patients ceasing the use of opioids and benzodiazepines which have long term negative health effects.

However, the Subcommittee disagreed as to whether the clinical data was sufficient to show that there was a need to increase the amount of medical marijuana that a patient may receive within thirty (30) days from two (2) ounces to four (4) ounces. It was noted that that Subcommittee's request for information from the recommending physicians did not include questions targeted toward obtaining this information. Through further discussion, the Subcommittee averred that the recommending physicians are responsible for ensuring that the patients are using medical marijuana in the most safe and efficacious manner, and that four (4) ounces is not inconsistent with the amount allowed in some other states.

SUBCOMMITTEE RECOMMENDATION

Based upon the clinical efficacy shown by the data submitted by the recommending physicians, the Subcommittee unanimously voted to recommend that the Director of the Department of Health increase the amount of medical marijuana a patient may receive within a thirty (30) day period from two (2) ounces to four (4) ounces.

REFERRAL TO THE INTERGOVERNMENTAL SUBCOMMITTEE

As you have instructed, the Subcommittee's recommendation will be referred to the Intergovernmental Subcommittee of the Medical Marijuana Advisory Committee established by Mayor's Order dated October 28, 2013, for its consideration and recommendation. Once the Intergovernmental Subcommittee has met, I will provide you with its recommendation.



Government of the District of Columbia
Department of Health



Health Regulation and Licensing
Administration

MEMORANDUM

TO: LaQuandra S. Nesbitt, MD, MPH
Director
Department of Health

FROM: Sharon Williams Lewis, DHA, RN-BC, CPM
Senior Deputy Director
Health Regulation and Licensing Administration
Chairperson, Medical Marijuana Scientific Subcommittee

DATE: August 15, 2016

SUBJECT: Medical Marijuana Advisory Committee -Intergovernmental Subcommittee
Report and Recommendation

BACKGROUND OF THE COMMITTEE

By Mayor's Order dated October 28, 2013, the Intergovernmental Subcommittee was established as part of the Medical Marijuana Advisory Committee.

The Intergovernmental Subcommittee ("Subcommittee") is charged with the following functions:

1. Monitor best practices in other states, monitor the effectiveness of the District's medical marijuana program, and make recommendations to the Director, and to the Mayor and the Council through the Director, and when asked to consult by the Scientific Subcommittee or other agencies;
2. Issue recommendations to the Director regarding the quantities of cannabis, not to exceed four (4) ounces per month, that are necessary to constitute an adequate supply for qualified patients and designated caregivers, and on security issues; and
3. Issue a report to the Mayor and Council through the Director recommending whether the District should allow qualifying patients and caregivers to cultivate medical marijuana, how to implement and regulate cultivation of medical marijuana by qualifying patients and caregivers, and any other comments the Subcommittee believes to be of importance.

The members of the Subcommittee are:

Sharon Williams Lewis, DHA, RN-BC, CPM, Chairperson, DC Department of Health

Matt Orlins, DC Department of Consumer and Regulatory Affairs

Kelly O'Meara, DC Metropolitan Police Department

Nathan Mulat, Office of the City Administrator

SUBCOMMITTEE ACTIVITY

Pursuant to D.C. Official Code §§ 7-1671.03(a) and 7-1671.13 (2012 Repl.), the Mayor may increase, via a rulemaking, the amount of medical marijuana from 2 ounces per 30 days to 4 ounces per 30 days. In Mayor's Order 2011-21, dated April 13, 2011, the Mayor delegated her rulemaking authority to the Director of the Department of Health.

The Subcommittee¹ held a public hearing on June 25, 2014, to consider:

1. Whether to recommend to the Mayor and the Council to increase the quantity of medical cannabis a patient may receive in a 30 day period, not to exceed four (4) ounces, as necessary to constitute an adequate supply for qualified patients; and
2. Whether to recommend to the Mayor and the Council to allow qualifying patients and caregivers to cultivate medical marijuana in the District of Columbia through the process commonly known as "home growing."

Seven public witnesses testified at the hearing. The following is a general summary of the testimony:

All of the public witnesses supported the increase from 2 ounces to 4 ounces per 30 day period.

- The current limit is not enough to support certain medical conditions and patients have to find alternative ways to treat their symptoms.
- Quantity of 2 ounces is hard to keep track of when you are purchasing in smaller amounts such as grams.
- Physicians should be able to decide or recommend the amount of ounces depending on a patient's illness.

¹ The members of the subcommittee at that time were Rikin Mehta, DOH, Chairperson; Matt Orlins, DCRA; Melanie Bell, OCA; and Kelly O'Meara, MPD.

Not all public witnesses spoke to private cultivation or homegrown medical marijuana, but all those who did supported it.

- **Juicing is a major health benefit but can only be achieved if patients have access to fresh leaves.**
- **Patients will have access to certain strands of marijuana best suited for their particular illness or symptoms.**
- **Alleviate stress from low income individuals who cannot afford their medication because medical marijuana is not covered under insurance plans.**
- **Medical marijuana can safely be grown in homes and provide a constant supply of medication.**

The Subcommittee did not reconvene to make a recommendation until August 2, 2016. A host of factors contributed to the lack of meetings. These factors included reports of product shortages, other program priorities, and a focus on implementing new statutory changes to the Medical Marijuana Program. Additionally, the cultivation centers were initially not producing edibles and juices, and the requests to increase the limit decreased as a result of statutory changes to the Medical Marijuana Program made in 2014.

At your request, the Subcommittee held a public open session meeting on August 2, 2016, to consider whether to recommend to the Director of the Department of Health to increase the amount of medical marijuana a patient may receive within a thirty (30) day period from two (2) ounces to four (4) ounces and whether the increase should apply to all forms of medical marijuana or only certain forms.

At the outset of the meeting, the Subcommittee determined that it needed to review the audio recording of the public hearing held on June 25, 2014. The Subcommittee members who were present at the public hearing recalled that the testimony was informative and very helpful. The Subcommittee also requested additional information to help inform the Subcommittee's recommendation. Specifically, the Subcommittee wanted to know the allowable amounts in other states, the impact of Initiative 71 and decriminalization on the Medical Marijuana Program, and the patient enrollment numbers marking major milestones in the program.

The Subcommittee also opened the floor for public comment and listened to the comments from the members of the public that were in attendance at the August 2, 2016 meeting. Those present included patients, dispensary owners, cultivation center owners, and other stakeholders. The public commented strongly in favor of increasing the limit. The comments cited to concerns that the current limitations are causing patients to obtain marijuana illegally, touted the medical benefits of the medication, and explained that patients need to try and test out different strains and forms to determine what works best for each particular patient. After hearing comments from the public, the Subcommittee agreed that the members would review the audio recording of the June 25, 2014 public hearing, the report and recommendation from the Scientific Subcommittee, and the other requested materials then reconvene on August 8, 2016.

The Subcommittee held a follow up public open session meeting on August 8, 2016, to further consider its recommendation. The Subcommittee members stated that each had reviewed the

audio recording and/or the summary of the testimony that was included in the revised minutes as well as the other materials provided. The Subcommittee noted the testimony from the June 25, 2014 hearing that it found particularly persuasive. This included testimony that a greater quantity of medical marijuana is needed to produce edibles and juice, and the testimony of Mr. Joshua Kahn that approximately one-third of the patients at his dispensary were running out of their allowed amount before the end of the thirty (30) day period.

SUBCOMMITTEE RECOMMENDATION

The Subcommittee unanimously voted to recommend that the Director of the Department of Health increase the amount of medical marijuana a patient may receive within a thirty (30) day period from two (2) ounces to four (4) ounces, and that the increase should apply to all forms of medical marijuana.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

Legal Counsel Division



MEMORANDUM

TO: Lolita S. Alston
Director
Office of Legislative Support

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: September 14, 2016

SUBJECT: Legal Sufficiency Review of Draft Approval Resolution, the “Marijuana for Medical Treatment Possession Limits Increase Regulation Approval Resolution of 2016”
(AE-16-549)

This is to Certify that this Office has reviewed the above-referenced draft approval resolution and has found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 202-724-5524.

A handwritten signature in black ink, appearing to read 'JMR/c. Parker', written over a horizontal line.

Janet M. Robins