

## **DEPARTMENT OF HEALTH**

### **NOTICE OF EMERGENCY RULEMAKING**

The Director of the District of Columbia Department of Health, pursuant to the authority provided by section 502 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.02 (2016 Repl.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption, on an emergency basis, of the following new section 4020 to Chapter 40 (Health Occupations: General Rules) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations ("DCMR").

This rulemaking establishes standards under which an individual shall be allowed to engage in the unlicensed practice of a health occupation in the District of Columbia until October 31, 2021; provided that the individual is licensed in good standing in their home jurisdiction in the applicable health occupation. Individuals that engage in the unlicensed practice of a health occupation in the District pursuant to this rule shall only provide healthcare services to patients at a licensed health care entity listed in this rule, for a licensed health care staffing agency, or by telehealth to established patients.

Emergency action is necessary because, the Director of the Department of Health, finds that it is necessary for the immediate preservation of the health, safety, and welfare of District residents to allow certain individuals who are properly licensed, registered, or certified and in good standing in their home jurisdictions, to be allowed, for limited time period, to provide healthcare services to District residents without a District license, pending issuance of a District of Columbia health occupation license.

This emergency rulemaking was adopted on September 22, 2021 and became effective immediately on that date. The emergency rulemaking will expire one hundred twenty (120) days from the date of adoption, on January 19, 2022.

**Chapter 40, HEALTH OCCUPATIONS: GENERAL RULES, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**A new Section 4020, TEMPORARY WAIVER OF LICENSURE REQUIREMENTS FOR CERTAIN HEALTHCARE PROVIDERS, is added to read as follows:**

**4020                    TEMPORARY WAIVER OF LICENSURE REQUIREMENTS FOR CERTAIN HEALTHCARE PROVIDERS**

4020.1                Until October 31, 2021, an individual may engage in the unlicensed practice of providing healthcare to District residents for a particular health occupation if the individual:

- (a)            Is licensed in good standing in another jurisdiction in the applicable healthcare occupation;

- (b) Has not been issued a suspension or revocation order by a District of Columbia health occupation board;
- (c) Files an application with the Department of Health by October 1, 2021, or ten (10) calendar days after the individual first engages in the unlicensed practice of providing healthcare to District residents pursuant to this section, whichever is later, for a health occupation license that would allow the individual to continue to provide healthcare services in their health occupation after October 31, 2021; and
- (d) Provides healthcare services pursuant to this section only:
  - (1) At a licensed or certified healthcare entity listed in subsection 4020.2 of this section, which may include the provision of healthcare services by telehealth; or
  - (2) To an established patient who has returned to the District of Columbia, and the individual is providing continuity of care to the patient by telehealth in accordance with applicable laws and regulations.

4020.2 Unlicensed practice pursuant to subsection 4020.1(d)(1) of this section is limited to the following licensed or certified healthcare entities:

- (a) Ambulatory surgical facilities, assisted living residences, community residence facilities, group homes for persons with intellectual disabilities, home care agencies, hospices, hospitals, maternity centers, nursing homes, and renal dialysis facilities, as defined in D.C. Official Code § 44-501(a), Section 2 of the Health-Care and Community Residence Entity, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(a) (2005 Repl.).
- (b) Licensed nursing staffing agencies, as set forth at 22-B DCMR 4900 *et seq.*; and
- (c) Home support agencies, as set forth at 22-B DCMR 9900 *et seq.*

4020.3 A healthcare entity utilizing the services of an individual practicing pursuant to this section shall:

- (a) Verify the credentials and license status of the individual in order to ensure compliance with this section, including by confirming that the individual has not been issued a suspension or revocation order by a District of Columbia health occupation board.

- (b) Implement a process by which the credentials and home jurisdiction license status of any such individual is routinely verified;
- (c) Ensure proper supervision of any services being provided by such individual; and
- (d) Maintain a list of all unlicensed individuals being utilized, which shall be made available to DC Health for inspection upon demand. The list will include the name of every individual practicing pursuant to this section, the profession of the individual, the location(s) in the District of Columbia where the individual will be practicing, and the home license jurisdiction of the individual.

4020.4 If a healthcare entity determines that an individual no longer meets the requirements to engage in the unlicensed practice of providing healthcare pursuant to this section, the healthcare entity shall immediately cease allowing that individual to continue providing care. The healthcare entity shall also notify the appropriate District of Columbia health professional licensing board as soon as it becomes aware of such information.

4020.5 An individual providing healthcare services pursuant to this section who no longer meets the requirements to engage in the unlicensed practice of providing healthcare services pursuant to this section shall immediately cease to provide such services.

4020.6 If the application for a health occupation license of an individual providing healthcare services pursuant to this section is denied or closed, the individual shall immediately cease providing healthcare services pursuant to this section and the healthcare entity shall immediately cease allowing the individual to continue providing such services.

4020.7 A healthcare entity found in non-compliance of the requirements of this section shall be subject to disciplinary and enforcement actions, which may result in revocation, suspension, or denial of an entity's license, a civil fine, or other penalties.

4020.8 The Department of Health may, by written or electronic correspondence, direct an entity that has not complied with the requirements of this section to either become fully compliant by a date set forth in the correspondence, or to surrender its license or certification by that date, and may impose a fine or other disciplinary action for failure of the entity to become fully compliant or surrender its license or certification.

4020.9 The Department of Health may deny an entity's application for the renewal of a license or certification if the entity has not complied with the

requirements of this section or may impose a fine or other disciplinary action for non-compliance, or both.

- 4020.10 Any individual that meets the requirements of this section but continues to provide healthcare services to District residents without a valid license or a pending application for a healthcare occupation license after October 31, 2021, may be subject to civil fines or other penalties.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Charlene Wills, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6<sup>th</sup> Floor, Washington, D.C. 20002, or by email to [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov). Copies of the proposed rules may be obtained during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays by contacting Angli Black, Paralegal Specialist, at (202) 442-5977 or [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov).