

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



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Kwame R. Brown
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: April 27, 2011

SUBJECT: Fiscal Impact Statement – “Marijuana for Medical Treatment Regulation Approval Resolution of 2011”

REFERENCE: Draft Legislation Shared with OCFO on April 19, 2011

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 \$109,301 in FY 2011 and \$330,369 over the budget and financial plan period.

Background

The proposed resolution would approve¹ the third proposed rulemaking² that establishes procedures for the initial implementation of the District’s medical marijuana program, namely the registration of patients, caregivers, dispensaries, and cultivation centers. These procedures would be carried out by the Department of Health (DOH) with help from a five-member panel and the Mayor. The Metropolitan Police Department (MPD) would be responsible for other related activities. The main tasks for each government entity and the fee structures are detailed below.³

¹ 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).

² These rules were also adopted on an emergency basis on April 14, 2011, and became effective immediately on that date.

³ 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

Under the proposed resolution, DOH would be required to:

- Provide application forms for patient and caregiver registrations;
- Receive and review initial and renewal applications for patient and caregiver registration (*i.e.* ensure that the application is complete and contains the required information, documentation, photos and fee);
- Approve or deny applications for patient and caregiver registration;
- Issue identification cards to qualifying patients and caregivers, which would contain a photo, issuance and expiration date, and other key information. All cards would be good for only 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 on the medical indications, uses, and side effects of medical marijuana. DOH could charge a fee for this program;
- 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; and
- Verify the validity of a registry identification card for law enforcement personnel.

The proposed fee structure is given below.

	Full Fee	Reduced Fee for Low-Income Individuals⁴
Annual Patient or Caregiver ID Card (Initial or Renewal)	\$100	\$25
Replacement Card Fee*	\$90	\$20

*This fee also would be applied if the patient changed their address, caregiver, recommending physician, or designated dispensary.

Cultivation Centers and Dispensaries

Under the proposed resolution, DOH would be required to:

- Measure distances between a cultivation center (or dispensary) and a school or recreation center;
- Provide application forms for dispensaries, cultivation centers, directors, employee and manager registrations; and post them on DOH's website;
- Accept letters of intent from individuals wanting to open cultivation centers and dispensaries;
- Publish a notice in the DC Register setting forth the process for submission of applications for cultivation centers and dispensaries;

⁴ The reduced fee is available for qualifying patients or caregivers whose income is equal to or less than 200 percent of the federal poverty level.

- Review applications for dispensary and cultivation center registrations to ensure they contain all of the required information. The completed applications would then be given to the five-member panel for evaluation;
- Notify applicants and Advisory Neighborhood Commissions (ANCs) located in the affected wards of the final approvals and denials of applications for cultivation centers and dispensaries;
- 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 biannual reports from cultivation centers and dispensaries;
- Receive and review applications for director, officer, member incorporator or agent registrations; employee registrations; and manager permits; and issue registrations valid for one year to qualifying persons, including a non-transferable uniform registration identification card;
- Renew registrations for all entities;
- Provide application forms for medical marijuana certification provider permits. Such permits would allow the holder to provide a medical marijuana training and education certification program in the District;
- Receive and review applications for medical marijuana certification provider permits and the proposed education training program, and issue said permits, which would be valid for three years;
- Conduct audits and frequent inspections of cultivation centers and dispensaries;
- 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; and
- Revoke or suspend registrations.

The proposed fee structure is given below.

Application, Registration and Permit Fees for Dispensaries and Cultivation Centers	
Type	Fee
<i>Application Fees</i>	
Filing fee for initial application for dispensary or cultivation center that is approved	\$5,000
Filing fee for initial application for dispensary or cultivation center that is denied	\$2,500
Filing fee for renewal applications for approved dispensaries and cultivation centers	\$3,000
Filing fee for medical marijuana certification provider permit	\$100
Transfer of ownership of dispensary or cultivation center	\$3,000
Transfer of location of dispensary or cultivation center	\$1,000
Change of director, officer, member, incorporator or agent	\$100
Corporate or name change for dispensary or cultivation center	\$100

Application, Registration and Permit Fees for Dispensaries and Cultivation Centers	
Type	Fee
<i>Registration and Permit Fees</i>	
Annual registration fee for a dispensary	\$10,000
Annual registration fee for a cultivation center	\$5,000
Annual registration fee for each director, officer, member, incorporator, or agent	\$200
Annual registration fee for each employee	\$75
Annual registration fee for a manager	\$150
Medical marijuana certification provider registration (every three years)	\$300
Duplicated or replacement for lost registration	\$25
Transport permit (transport medical marijuana from cultivation centers to dispensaries)	\$25
Duplicated or replacement for lost permit	\$25

Five-Member Panel

A five-member panel ("panel") consisting of one representative from DOH, MPD, Office of the Attorney General, Department of Consumer and Regulatory Affairs and a consumer representative or patient advocate would be required to:

- Evaluate and score all applications for cultivation center and dispensary registrations;
- Select no more than 10 cultivation center and 5 dispensary registration applications since under current law⁵ and in the proposed rulemaking, these are the maximum numbers that can be registered to operate in the District;
- Evaluate and score ANC comments received during the comment period on the selected cultivation centers and dispensaries; and
- Forward final selections to DOH along with a narrative for why each was chosen.

Mayor

The Mayor would be required to:

- Give written notice through the mail upon the initial selection of a completed application by a five member panel, a third year renewal for a dispensary or cultivation center⁶, or an application to transfer the dispensary or cultivation center to a new location to all ANCs in the affected wards;
- Accept public comment from ANCs on these applications; and
- Post notices on the outside of establishments that have applied for dispensary or cultivation center registrations.

Metropolitan Police Department

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

- Assess security plans provided by dispensaries and cultivation centers in their applications; and
- Destroy all unused or surplus medical marijuana.

⁵ Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; 57 DCR 4798).

⁶ The first renewal notice would be provided by DOH to ANCs in 2015.

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 \$230,725 in FY 2011 and \$1.25 million over the financial plan period. Implementation is estimated to cost \$121,424 in FY 2011 and \$919,571 over the financial plan period. The net fiscal impact of the proposed resolution is \$109,301 in FY 2011 and \$330,369 over the financial plan period. All revenues collected by DOH would be deposited into the General Fund. Appropriations would be made to DOH to cover all of the costs associated with implementing the bill.

A more detailed analysis follows after the table.

Fiscal Impact of Marijuana for Medical Treatment Regulation FY 2011 – FY 2014					
	FY 2011	FY 2012	FY 2013	FY 2014	Four-Year Total
Revenues (from fees)	\$230,725	\$280,940	\$326,410	\$411,865	\$1,249,940
Costs	(\$121,424)	(\$268,781)	(\$263,473)	(\$265,893)	(\$919,571)
Net Fiscal Impact	\$109,301	\$12,159	\$62,937	\$145,972	\$330,369

Under the proposed bill, DOH would collect the following fees: annual patient and caregiver registration fees, fees for replacement patient and caregivers identification cards, initial and annual renewal application processing fees for dispensary and cultivation centers, annual cultivation center and dispensary registration fees, and registration fees for those in charge of and working for cultivation centers and dispensaries (director, officer, member, incorporator, or agent; employees; and managers).⁷

DOH also would incur a number of costs. First, DOH would need to hire four full-time employees:

1) a health licensing specialist to oversee the cultivation center and dispensary registration process, including reviewing all applications, communicating with ANCs, preparing materials for the panel, and receiving complaints regarding compliance; 2) an inspector/investigator to inspect all cultivation centers and dispensaries, and investigate complaints submitted to DOH with respect to the Medical Marijuana Program; and 3) two administrative assistants to process patient and caregiver applications and issue identification cards.

Second, DOH would need to hire a consultant⁸ with expertise in cultivation including soil, watershed, pesticides and environmental conditions for growing medical marijuana. Third, DOH would need to update its current database so that it could store and track patient information and allow quick verification of patient information for law enforcement personnel. Lastly, DOH would

⁷ DOH also would collect fees from education provider permits and transport permits, but the estimate does not include these as they are expected to be low. Fees for transfer or ownership or location for cultivation centers and dispensaries and change in director or name also are not included, as there is no way to reliably estimate how often these would occur.

⁸ Alternatively, they could sign a Memorandum of Understanding with the District Department of the Environment or with DC Water to provide these services.

incur various start-up costs related to the identification card machine, mailings, information materials, etc.⁹

While MPD would be required to destroy unused or surplus medical marijuana under the proposed legislation, it is assumed that this activity would not require any additional resources. An insignificant amount of such medical marijuana is expected to be destroyed in the first full two years of the program. Beginning in FY 2014 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 monies.

Fiscal Impact FY 2011 – FY 2014					
	FY 2011	FY 2012	FY 2013	FY 2014	Four-Year Total
Annual Patient and Caregiver Registration Fees ^a	\$11,625	\$113,940	\$170,910	\$256,365	\$552,840
Initial Application Fees for Cultivation Centers and Dispensaries (approved and rejected) ^b	\$120,000	\$17,500	\$0	\$0	\$137,500
Annual Renewal Application Fees for Cultivation Centers and Dispensaries ^c	\$0	\$39,000	\$45,000	\$45,000	\$129,000
Annual Registration Fees for Cultivation Centers and Dispensaries	\$90,000	\$100,000	\$100,000	\$100,000	\$390,000
Registration Fees for Individuals Working for Cultivation Centers and Dispensaries ^d	\$9,100	\$10,500	\$10,500	\$10,500	\$40,600
Salary and Benefits for 4 New DOH Employees ^e	(\$56,424)	(\$223,781)	(\$253,473)	(\$260,893)	(\$794,571)
Environmental Consultant	(\$20,000)	(\$20,000)	(\$5,000)	(\$5,000)	(\$50,000)
IT Costs	(\$20,000)	(\$25,000)	(\$5,000)	\$0	(\$50,000)
Start-up Costs	(\$25,000)	\$0	\$0	\$0	(\$25,000)
TOTAL	\$109,301	\$12,159	\$62,937	\$145,972	\$330,369

^a Assumes registrations would begin in September 2011, 100 patient and 50 caregiver successful applications would be processed that month, 900 and 450 in FY 2012, and that successful registrations would increase by 50 percent in each subsequent year;¹⁰ 30 percent of all registrants would pay the reduced fee;¹¹ and each year 10 percent of all registrants would require a replacement card.

⁹ There also would be a cost to provide signs to cultivation centers and dispensaries, but given that this is expected to be small, it is not included in the estimate.

¹⁰ 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 the shift in federal policy regarding pursuing cases against medical marijuana patients and caregivers, familiarity with medical marijuana, and the District's higher HIV/AIDS population.

¹¹ According to Census data, in 2009, 33 percent of the District's population lived at or below 200 percent of the poverty line.

The Honorable Kwame R. Brown

FIS: "Marijuana for Medical Treatment Regulation Approval Resolution of 2011," Draft Legislation Shared with OCFO on April 19, 2011

^b Assumes DOH would receive applications from 20 cultivation centers and 15 dispensaries in FY 2011. Of these, 8 cultivation centers and 5 dispensaries would be approved. In FY 2012, DOH would receive another 5 applications for cultivation centers, of which 2 would be approved.

^c Assumes no registrations for approved cultivation centers and dispensaries are revoked or that any of these entities ceases businesses for any other reason.

^d Assumes each cultivation center and dispensary would have 2 directors, officers, member incorporators or agents; 2 employees; and 1 manager

^e Assume a Health Licensing Specialist would be hired in May 2011 (Grade 9, Step 5, Schedule X01), an Inspector/Investigator in August 2011 (Grade 12, Step 5, Schedule X01), one Administrative Assistant in September 2011 and the other in April 2012 (Grade 7, Step 5, Schedule X03).