



MURIEL BOWSER
MAYOR

December 19, 2023

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council is Proposed Rulemaking to amend Section 2017 (Health Examinations) of Chapter 20 (Hospitals) of Title 22-B DCMR. Also included with this transmittal is the "Hospital Health Screenings and Examinations Approval Resolution of 2023."

The proposed amendments to Section 2017 (Health Examinations) of Chapter 20 (Hospitals) revise regulatory requirements on health screenings and examinations for hospital employees, physicians, and nonpaid personnel and ensure compliance with the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA).

The Proposed Rulemaking was published in the DC Register at 70 D.C. Register 003125 on March 10, 2023.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser".

Muriel Bowser



Chairman Phil Mendelson
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To approve the proposed rules to amend Section 2017 (Health Examinations) of Chapter 20 (Hospitals) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations that implement the provisions of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Hospital Health Screenings and Examinations Approval Resolution of 2023”.

Sec. 2. Pursuant to section 5(j) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-504(j)), the Council approves the proposed rules adopted by the Mayor that amend Section 2017 (Health Examinations) of Chapter 20 (Hospitals) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations.

Sec 3. Fiscal Impact.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (97 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

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

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

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Interim Director of the Department of Health, pursuant to the authority set forth in section 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 (“Act”), effective February 24, 1984, D.C. Law 5-48, D.C. Official Code § 44-504(a) and Mayor’s Order 98-137, dated August 20, 1998, hereby gives notice of her intent to adopt the following amendments to section 2017 (Health Examinations) of Chapter 20 (Hospitals) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations (“DCMR”).

The amendments to section 2017 (Health Examinations) revise regulatory requirements on health screenings and examinations for hospital employees, physicians, and nonpaid personnel and require compliance with the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA). For information on ADA, please view <https://www.eeoc.gov/disability-discrimination-and-employment-decisions>; for information on GINA, please view <https://www.eeoc.gov/laws/guidance/what-you-should-know-questions-and-answers-about-genetic-information> for GINA.

Pursuant to section 5(j) of the Act (D.C. Official Code § 44-504(j)), the proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules by resolution within this 45-day review period, the proposed rules shall be deemed approved.

The Interim Director hereby gives notice of her intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days after the publication of this notice in the *District of Columbia Register*.

Chapter 20, HOSPITALS, of Title 22, HEALTH, Subtitle B, PUBLIC HEALTH AND MEDICINE, of the DCMR is amended as follows:

Section 2017, HEALTH EXAMINATIONS, is renamed and amended to read as follows:

2017 HEALTH SCREENINGS AND EXAMINATIONS

2017.1 A hospital’s policies and procedures for health screening and examinations to prevent the transmission of communicable diseases must comply with the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA).

2017.2 Each person, other than a physician, involved in the performance of duties involving direct patient care shall have an occupational health screening by a physician or other qualified health professional after receiving a conditional offer for employment or within thirty (30) calendar days after commencing employment, and at least once every two (2) years thereafter. Each physician shall have an

occupational health screening performed by another physician or other qualified health care professional after receiving a conditional offer for employment, at a time before commencing employment, and once every two (2) years thereafter.

- 2017.3 Occupational health screenings may include:
- (a) A limited medical history (excluding family medical history);
 - (b) A physical examination;
 - (c) An intradermal tuberculin test, a U.S. Food and Drug Administration (FDA) approved blood test for tuberculin, or a written report of an intradermal or blood test or x-ray made by a qualified person within twelve (12) months before the date of the examination; and
 - (d) Any other laboratory work performed as part of an occupational health screening.
- 2017.4 An intradermal tuberculin test and any subsequent tests performed as part of an occupational health screening shall be performed in accordance with section 2017.5.
- 2017.5 Preventative measures, screening, testing, and frequency of screening and testing for tuberculosis performed as part of an occupational health screening shall be in accordance with standards and guidelines of the Centers for Disease Control and Prevention (CDC).
- 2017.6 A report, signed by an examining physician or other qualified health professional, shall be made of each occupational health screening.
- 2017.7 The report of each occupational health screening shall be kept on file in the hospital, stored separately from the employee's personnel file, and shall be open to inspection by the Department.
- 2017.8 In lieu of the intradermal tuberculin test required by this subsection, the examining physician may accept a written report of the test or x-ray made by a qualified person within twelve (12) months prior to the date of the examination.
- 2017.9 Each person who is involved in direct patient care and who has been absent from duty because of an illness required to be reported to the Department shall, prior to returning to duty, obtain certification from a physician or other qualified health professional, as provided for in the hospital's policies, that they may return to duty without apparent danger of transmitting the cause of the illness to any patient.

- 2017.10 A copy of each certification required by § 2017.9 shall be kept on file, stored separately from the employee's personnel file, and made available for examination by the Department.
- 2017.11 Hospital work shall be deemed to be an occupation the duties of which are such that the activity of each individual performing the work is likely to be dangerous to the lives or health of other persons, within the meaning of § 213 of chapter 2 of this title relating to the reporting and control of communicable diseases.
- 2017.12 Immunization against communicable disease shall be required of all employees and all other persons who routinely come in contact with patients or patient areas. Immunizations shall be in accordance with current standards and guidelines developed by the CDC.

All persons desiring to comment on the subject matter of this proposed rulemaking shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002 or by email to Angli.Black@dc.gov. 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, Paralegal Specialist, at Angli.Black@dc.gov or (202) 442-5977.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



LEGAL COUNSEL DIVISION

MEMORANDUM

TO: Beverly Perry
Interim Director
Office of Policy and Legislative Affairs

FROM: Megan D. Browder
Deputy Attorney General
Legal Counsel Division

DATE: November 28, 2022

SUBJECT: Legal Sufficiency Review of Council Approval Resolution for Proposed Rulemaking Amending Chapter 20 (Hospitals) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations (AR-22-527)

This is to Certify that this Office has reviewed the above-referenced proposed legislation and has found it to be legally sufficient. If you have questions regarding this certification, please do not hesitate to contact me at (202) 724-5524.

A handwritten signature in black ink that reads "Megan D. Browder". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Megan D. Browder