

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Consumer Affairs (“DCA”) is proposing to promulgate a new rule under Title 6 of the Rules of the City of New York which will prohibit any applicant for a DCA-issued license whose application is denied or whose license is revoked from applying for the same license again for a period of one year. This prohibition would only apply if the application was denied or the license was revoked because the applicant concealed information, made a false statement, or falsified or allowed to be falsified any certificate, form, signed statement, application or report required to be filed with DCA.

When and where is the Hearing? The Department of Consumer Affairs will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 AM on Monday, November 12, 2018. The hearing will be in the DCA hearing room at 42 Broadway, 5th Floor, New York, NY 10004.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department of Consumer Affairs through the New York City rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **Mail.** You can mail comments to Casey Adams, Director of City Legislative Affairs, New York City Department of Consumer Affairs, 42 Broadway, 8th Floor, New York, NY 10004.
- **Fax.** You can fax written comments to the Department of Consumer Affairs, (646) 500-5962.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 436-0095. You can also sign up in the hearing room before the hearing begins on Monday, November 12, 2018. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any written comments to the proposed rule on or before 5:00 PM on Monday, November 12, 2018.

Do you need assistance to participate in the Hearing? You must tell DCA’s External Affairs Division if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 436-0095. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by 5:00 PM on Thursday, November 8, 2018.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, all comments received by DCA on the proposed rule will be made

available to the public online at <http://www1.nyc.gov/site/dca/about/public-hearings-comments.page>.

What authorizes DCA to make this rule? Sections 1043 and 2203(f) of the New York City Charter and Section 20-104(b) of the New York City Administrative Code authorize DCA to make this proposed rule. This proposed rule was included in the regulatory agenda of the Department of Consumer Affairs for this Fiscal Year.

Where can I find DCA's rules? The Department of Consumer Affairs rules are in Title 6 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department of Consumer Affairs must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Department of Consumer Affairs (“DCA”) licenses and regulates 55 different categories of businesses and individuals pursuant to Section 2203(c) of the New York City Charter and Title 20 of the New York City Administrative Code. In 2017, DCA received over 20,000 applications across those license categories. DCA is required to perform individual review and processing of each application. This proposed rule would prohibit any person whose application is denied or whose license is revoked from applying for the same license again for a period of one year. The prohibition would only apply if the application was denied or the license was revoked because the applicant concealed information, made a false statement, or falsified or allowed to be falsified any certificate, form, signed statement, application or report required to be filed with DCA. This proposed rule is necessary to conserve DCA’s limited resources. A repeat application within one year is wasteful. Additionally, allowing a repeat application after an applicant has lied undermines the benefit of requiring applicants to provide truthful information.

DCA’s authority for these rules is found in Sections 1043 and 2203(f) of the New York City Charter and Section 20-104(b) of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Proposed Rules

Section 1. Chapter 1 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 1-01.1. Applications.

(a) No applicant for a license or a renewal thereof shall fail to provide complete and truthful responses to all the information requested on an application for such license or renewal thereof and any documents related thereto.

(b) No applicant for a license or renewal thereof shall conceal any information, make a false statement or falsify or allow to be falsified any certificate, form, signed statement, application or report required to be filed with an application for a license that is to be issued by the department or for a renewal thereof.

(c) Unless otherwise provided by law or rule, no applicant for a license or renewal thereof, or licensee, including the general partners, officers, directors, and principal stockholders of such applicant or licensee, whose application or renewal thereof is denied or whose license is revoked by the Department may submit a new application for the same license for a period of 12 months from the date the initial application or renewal was denied or the license was revoked. This subsection shall only apply if the initial application or renewal was denied, or the license was revoked, because the applicant or licensee concealed information, made a false statement, or falsified or allowed to be falsified any certificate, form, signed statement, application or report

required to be filed with an application for a license that is to be issued by the department or for a renewal thereof.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of rules regarding post-denial bar for false statements

REFERENCE NUMBER: DCA-83

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not include a cure period because – although the proposed rule imposes a ban - a cure period would defeat the purpose of discouraging false statements on an application.

/s/ Mia Jamili
Mayor's Office of Operations

October 2, 2018
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of rules regarding post-denial bar for false statements

REFERENCE NUMBER: 2018 RG 087

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: 10/2/2018