



Date of Notice: July 2, 2018

**STATE OF RHODE ISLAND  
DEPARTMENT OF HEALTH  
PUBLIC NOTICE OF PROPOSED RULE MAKING**

In accordance with Rhode Island General Laws (RIGL) 42-35-2.7, notice is hereby given that the Rhode Island Department of Health (RIDOH) proposes to amend the rules and regulations for Nursing Home Administrators (216-RICR-40-05-32).

**REGULATION TITLE:**

**RICR Title 216 – Rhode Island Department of Health  
Chapter 40 – Professional Licensing and Facility Regulation  
Subchapter 05 – Professional Licensing  
Part 32 – Nursing Home Administrators**

**TYPE OF FILING:** Amendment.

**RULEMAKING ACTION:** Public Notice of Proposed Rule Making.

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:** The public comment period ends on Wednesday, August 1, 2018.

**SUMMARY OF PROPOSED RULE:** The RIDOH is proposing rulemaking to create an Authority section, implement Secretary of State definitional requirements, remove statutory reiteration, remove superfluous language, and revise application requirements including removal of notarization requirements.

**COMMENTS INVITED:** All interested parties are invited to submit written comments concerning the proposed regulations. Written comments can be submitted by mail to Paula Pullano, Rhode Island Department of Health, 3 Capitol Hill, Providence, RI 02908-5097 or by email at [paula.pullano@health.ri.gov](mailto:paula.pullano@health.ri.gov) by the close of **Wednesday, August 1, 2018**. Please note that comments submitted to RIDOH by other means than the prescribed mailing and email address may not be received and addressed in RIDOH's concise explanatory statement. To ensure that your comments are received, please send them to the prescribed mailing and email address.

**PUBLIC HEARING:** In accordance with R.I. Gen. Laws § 42-35-2.8(c), an oral hearing will be granted if requested by twenty-five (25) persons, by a governmental agency, or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) calendar days of this notice, and must clearly state the name of the regulation for which the hearing is being requested.

**WHERE COMMENTS MAY BE INSPECTED:** Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island 02908-5097.

**FOR FURTHER INFORMATION CONTACT:** Paula Pullano, Rhode Island Department of Health, Division of Policy, Information, and Communications, 3 Capitol Hill, Providence, Rhode Island 02908-5097, 401-222-1042, paula.pullano@health.ri.gov.

**AUTHORITY FOR THE RULEMAKING:** R.I. Gen. Laws § 5-45-13.

**REGULATORY FINDINGS:** In the development of the proposed amendment, consideration was given to: 1) alternative approaches; 2) overlap or duplication with other statutory and regulatory provisions; and 3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based on available information. RIDOH has determined that the benefits of the proposed rule justify the costs of the proposed rule.

**THE PROPOSED AMENDMENT:** RIDOH proposes to amend the rules and regulations for Nursing Home Administrators (216-RICR-40-05-32) as follows in the concise explanatory statement of proposed non-technical amendments.

**STATE OF RHODE ISLAND  
 RHODE ISLAND DEPARTMENT OF HEALTH  
 CONCISE STATEMENT OF PROPOSED NON-TECHNICAL AMENDMENTS  
 (AMENDMENTS TO AN EXISTING REGULATION)**

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-3(a)(1), the following is a concise statement of proposed non-technical amendments to the rules and regulations for Nursing Home Administrators (216-RICR-40-05-32).

<b>Amendment Coordinates</b>	<b>Rationale/Summary of Change</b>
§ 32.1: Creates Authority section.	
§ 32.2: Implements Secretary of State definitional requirements and removes superfluous language.	
§ 32.3.2: Removes statutory reiteration.	
§ 32.3.3: Revises application requirements to eliminate notarization/photograph requirements.	
§ 32.3.4(B)(1)(d): Removes requirement for submission thirty (30) days prior to the scheduled meeting of the Board.	
§ 32.3.5(B): Revises to plain language, removes notarization requirement, and removes superfluous language.	
§ 32.3.7: Removes statutory reiteration.	
§ 32.4.1: Implements plain language.	
Severability: Removed as superfluous.	

216-RICR-40-05-32

## TITLE 216 - DEPARTMENT OF HEALTH

### CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION

#### SUBCHAPTER 05 – PROFESSIONAL LICENSING

PART 32 – Nursing Home Administrators

#### **32.1 Authority**

These regulations are promulgated pursuant to the authority set forth in R.I. Gen. Laws § 5-45-13, and are established for the purpose of establishing prevailing requirements for the licensing of nursing home administrators.

#### **32.2 Definitions**

A. Wherever used in this Part the following terms shall be construed as follows:

1. "Act" ~~refers to~~means R.I. Gen. Laws Chapter 5-45, entitled "Nursing Home Administrators."
2. "Board" ~~refers to~~means the Board of Examiners for Nursing Home Administrators established pursuant to the provisions of R.I. Gen. Laws § 5-45-1~~of the Act~~.
3. "Contact hours" means hours acquired through attendance or participation at programs that provide for direct interaction between faculty and participants and may include lectures, symposia, live teleconferences or workshops.
4. "Director" means the Director of the Rhode Island Department of Health.
5. "Department" means the Rhode Island Department of Health.
6. "Non-contact hours" means internet courses, correspondence courses, tapes, or other continuing education programs that do not provide for direct interaction between faculty and the participant.
7. "Nursing home" means any facility providing nursing care to any in-patient thereof which to operate is required to be licensed under any law or regulation of the state and which is further defined as a skilled nursing home by the licensing authority of the state pursuant to R.I. Gen. Laws § 5-45-4(5).
8. "Nursing home administrator" means the individual responsible for planning, organizing, directing and controlling the operation of the nursing home, whether or not such functions are shared by one or more other persons, pursuant to R.I. Gen. Laws § 5-45-4(6).

9. "Regionally accredited" means the official guarantee that a college or university or other educational institution is in conformity with the standards of education prescribed by a regional accrediting commission recognized by the U.S. Commissioner of Education.

~~10.—“RIGL” means the General Laws of Rhode Island, as amended.~~

## 32.3 Licensing Requirements for Nursing Home Administrators

### 32.3.1 License Requirement

Pursuant to R.I. Gen. Laws § 5-45-5, no nursing home in Rhode Island shall operate except under the supervision of a nursing home administrator, and no person shall be a nursing home administrator unless he or she is the holder of a sufficient nursing home administrator's license in accordance with the statutory provisions of the Act and this Part.

### 32.3.2 Qualifications for Licensure

- A. In addition to the qualifications for licensure stated in R.I. Gen. Laws § 5-45-7, an applicant seeking licensure as a nursing home administrator in Rhode Island must:

~~Be no less than eighteen (18) years of age and of good moral character;~~

1. Have satisfactorily completed in a nationally or regionally accredited college or university of higher learning at least a bachelor's degree in the field of health care administration or a bachelor's degree and satisfactory evidence of completion of a minimum of fifteen (15) credit hours in a course of instruction, in a nationally or regionally accredited college or university of higher learning, to include each of the five (5) content areas as set forth below:
  - a. Resident care management in nursing homes;
  - b. Personnel management;
  - c. Financial management;
  - d. Environmental management of nursing homes; and
  - e. Governance and management of nursing homes; and
2. Have satisfactorily completed a field experience of at least three hundred fifty (350) hours, within a twelve (12) month period in an Administrator-in-Training capacity in a licensed nursing facility, which shall include training in the following areas:
  - a. Administration;
  - b. Human Resources;

- c. Nursing Department;
  - d. Rehabilitation Department;
  - e. Medical/Patient Records;
  - f. Activities Department;
  - g. Social Services/Admissions;
  - h. Business Office;
  - i. Dietary Department;
  - j. Housekeeping/Laundry; and
  - k. Environment/ Maintenance.
  - l. At the conclusion of the field experience, the administrator of the licensed nursing facility where the field experience was performed must attest that the training included each area;
3. Have successfully completed the licensing examination as determined by the Board and the Director in accordance with the provisions of § 32.3.4 of this Part.

### 32.3.3 Application for Licensure

- A. Application for licensure to practice in Rhode Island as a nursing home administrator shall be made on forms provided by the Department which shall be completed and submitted thirty (30) days prior to the scheduled date of the Board meeting. Such application shall be accompanied by the following documents:

~~For U.S. born applicants, a copy of birth certificate notarized that it is a true, accurate copy of the original;~~

~~For foreign born applicants, proof of lawful entry into the country and eligibility for employment in the United States.~~

1. Supporting official transcripts of education and training credentials in accordance with § 32.3.2 of this Part; such documentation must be sent directly from the school to the Department and must bear the signature of the registrar and the imprint of the school seal;

~~One (1) unmounted recent photographs of the applicant (head and shoulder view) approximately 2 x 3 inches in size signed and dated by the applicant on the back of the photograph;~~

2. For applicants licensed in another state, the results of the nursing home administrator examination must be sent directly from the state of original licensure or the examination service to the Department;
3. Such other information as the Director may deem necessary.

#### **32.3.4 Licensing of Nursing Home Administrators**

##### **A. By Examination**

1. Applicants shall be required to pass a written examination as determined by the Board and the Director to test the qualifications of the applicants to practice as a nursing home administrator pursuant to the provisions of the Act and this Part. Prior to sitting for the written examination, an applicant for licensure shall be required to complete all requirements for licensure, as approved by the Board, except for passing the examination. Applicants who have previously tested unsuccessfully must meet all requirements for licensure prevailing in Rhode Island at the time the retest is administered.
  - a. For written examination, the Board has designated the National Association of Board of Examiners of Long Term Care Administrators (NAB) as the organization to test the applicant's competency, skill and knowledge of nursing home administration.
  - b. The national examination recommended passing score will be accepted by the Department as the minimal passing score.

##### **B. By Endorsement**

1. A license may be issued to a nursing home administrator without examination to an applicant who holds a current license in good standing as a nursing home administrator in another jurisdiction, provided:
  - a. The Department finds that the standards for licensure in such other jurisdiction are substantially equivalent to those prevailing in Rhode Island at the time of application;
  - b. The licensing agency in each state in which the applicant holds or has held a registration or license submits to the Board a statement confirming the applicant to be or have been in good standing; and the applicant provides written documentation from the nursing home licensing authority in each jurisdiction where the applicant has been licensed attesting to the absence of findings of substandard care, fines, or admission restrictions in an administered licensed long-term care facility which he/she administered within the most recent three (3) years prior to application. (If such findings exist, the applicant may be allowed the opportunity to appear before the Board to offer explanation); and

- c. The applicant supplies evidence to the Board of completion of forty (40) hours of continuing education in the most recent two (2) years prior to application; and
- d. The applicant submits ~~thirty (30) days prior to the scheduled meeting of the Board,~~ a completed licensure application in accordance with the provisions of § 32.3.3 of this Part; and
  - (1) The applicant meets the qualifications required of nursing home administrators in Rhode Island as set forth in § 32.3.2 of this Part; or
  - (2) The applicant is currently certified by and in good standing with the American College of Health Care Administrators (ACHCA), or
  - (3) The applicant meets all of the following requirements:
    - (AA) Has earned a bachelor's degree; and
    - (BB) Has no less than three (3) years experience (in the most recent five [5] years prior to application) as a licensed nursing home administrator of a licensed long-term care facility or has been in a management position with no less than three (3) years experience (in the most recent five [5] years) having direct responsibility for overseeing and directing three (3) or more licensed nursing home administrators; and
    - (CC) Successful completion of the national examination in accordance with § 32.3.4(A)(1)(a) of this Part.

### 32.3.5 Issuance and Renewal of License and Fee

- A. Upon the recommendation of the Board, the Department shall issue to applicants who have satisfactorily met the licensure requirements of this Part, a license to a nursing home administrator to function as such in Rhode Island. Said license unless sooner suspended or revoked shall expire on June 30th of the next regular expiration date following the date of issuance of the original license and every two (2) years on June 30th of the next even numbered year thereafter.
- B. Every licensed person ~~so-licensed~~ who wishes to renew his or her license shall file with the Department by June 1st, a renewal application ~~duly-executed~~ together with a ~~two (2)-year~~ renewal fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title).
  - 1. In June of every even numbered year, application for renewal of licensure shall be accompanied by or supported by evidence of the licensee's having completed a minimum of forty (40) hours of continuing education as provided in § 32.3.6 of this Part. Said requirement shall be pro-rated as necessary by the



Department to reflect periods of less than two (2) years of licensure prior to renewal.

- C. Any person who allows his or her license to lapse by failing to renew it on or before the first day of July every two (2) years as provided above, may be reinstated by the Department upon submission of an application and on payment of the current renewal fee, and completion of the continuing education requirements in accordance with § 32.3.5(B)(1) of this Part within the immediate two (2) years prior to the applicant's request for licensure renewal, unless license has been suspended or revoked.
  - 1. Any person using the title of "nursing home administrator" or functioning as a nursing home administrator during the time that his or her license has lapsed shall be subject to the penalties for violation of the provisions of the Act and this Part.

### **32.3.6 Mandatory Continuing Education**

- A. Programs for continuing education which are acceptable for continuing education credits set forth in § 32.3.5(B)(1) of this Part and in accordance with § 32.3.2(A)(1) of this Part for nursing facility administrators shall be presented by:
  - 1. The RI Health Care Association
  - 2. The RI Association of Facilities for the Aging
  - 3. The American College of Health Care Administrators
  - 4. The Alliance for Better Long Term Care
  - 5. Nationally recognized associations of the aforementioned groups
  - 6. Any duly accredited college or university
  - 7. Programs approved by the National Continuing Education Review Service (NCERS) of the National Association of Boards of Examiners of Long Term Care Administrators.
- B. Thirty (30) hours of the required forty (40) hours of continuing education in a two (2) year period shall be contact hours, as defined in this Part. The remaining ten (10) hours of continuing education may be non-contact hours.
- C. It shall be the sole responsibility of the individual nursing home administrator to obtain documentation from the recognized sponsoring or co-sponsoring organizations, agencies or other, of his or her participation in the learning experience and the number of dated credits earned. Furthermore, it shall be the sole responsibility of the individual to safeguard the documents for review by the Board, if required. These documents shall be retained by each licensee for no less than four (4) years and are subject to random audit by the Department.

- D. An extension of time to complete the continuing education requirements may be granted to a nursing home administrator solely at the discretion of the Board for reasons of hardship or other extenuating circumstances.

### 32.3.7 Grounds for Denial, Revocation or Suspension of License

- A. Pursuant to the statutory provisions of R.I. Gen. Laws § 5-45-12, the Department may deny issuance of a license or suspend or revoke any license issued under the provisions of the Act and this Part, or may reprimand, censure or otherwise discipline, upon decision and after hearing in accordance with § 32.4.2 of this Part upon proof that the licensee engaged in unprofessional conduct which includes but is not limited to those grounds stated in R.I. Gen. Laws § 5-45-12(a), and:

1. Has become unfit or incompetent by reason of negligence, habits, or other causes such as physical and mental impairment that would interfere with proper performance of duties;

~~Is in violation of any of the provisions of the Act or this Part, or acted in a manner inconsistent with the health and safety of the patients of the home in which he or she is the administrator;~~

~~Has engaged in fraud or deceit in the practice of nursing home administration or in his or her admission to such practice;~~

~~Has been convicted in a court of competent jurisdiction, either within or without Rhode Island, of a felony;~~

2. Neglect or misconduct in professional practice; and
3. Any departure from or failure to conform to the minimal standards of acceptable and prevailing practice in nursing home administration. Actual injury to a patient/client/ resident need not be established.

- B. All hearings and reviews as may be required by this Part shall be conducted in accordance with the provisions of § 32.4.2 of this Part.

## 32.4 Violations and Penalties Practices and Procedures Severability

### 32.4.1 Violations and Penalties

Any violations as set forth in § 32.3.7 of this Part shall be cause for the Department to impose such sanctions, or denial, revocation or suspension of license or imposing a reprimand or censure on such other disciplinary action. Furthermore, ~~pursuant to R.I. Gen. Laws § 5-45-11,~~ any violations of the provisions of R.I. Gen. Laws § 5-45-11 ~~that section of the Act~~ shall be subject to the penalties of that section.

### 32.4.2 Rules Governing Practices and Procedures

All hearings and reviews required under the provisions of the Act shall be held in accordance with the provisions of the Act and the rules and regulations regarding

Practices and Procedures Before the Rhode Island Department of Health (Part 10-05-4 of this Title) and Access to Public Records (Part 10-05-1 of this Title).

### **Severability**

~~If any provisions of these rules and regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application herein which can be given effect, and to this end the provisions of these regulations are declared to be severable.~~