



Date of Notice: July 11, 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 Assisted Living Residence Administrators (216-RICR-40-05-18).

REGULATION TITLE:

**RICR Title 216 – Rhode Island Department of Health
Chapter 40 – Professional Licensing and Facility Regulation
Subchapter 05 – Professional Licensing
Part 18 – Assisted Living Residence 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 Friday, August 10, 2018.

SUMMARY OF PROPOSED RULE: The RIDOH is proposing rulemaking to create an Authority section, implement Secretary of State definitional requirements, and remove superfluous language.

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 by the close of **Friday, August 10, 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 §§ 23-17.4-21.2 and 23-17.4-29.

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 Assisted Living Residence Administrators (216-RICR-40-05-18) 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 Assisted Living Residence Administrators (216-RICR-40-05-18).

Amendment Coordinates	Rationale/Summary of Change
§ 18.1: Creates Authority section. § 18.2: Implements Secretary of State definitional requirements and removes superfluous language. Severability: Removed as superfluous.	

216-RICR-40-05-18

TITLE 216 - DEPARTMENT OF HEALTH

CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION

SUBCHAPTER 05 – PROFESSIONAL LICENSING

Part 18 – ~~Administrators of~~ Assisted Living Residences Administrators

18.1 Authority

These regulations are promulgated pursuant to the authority set forth in R.I. Gen. Laws §§ 23-17.4-21.2 and 23-17.4-29, and are established for the purpose of establishing prevailing standards for the licensure of assisted living residence administrators in Rhode Island.

18.2 Definitions

- A. Wherever used in this Part the following terms shall be construed as follows:
1. "Act" means R.I. Gen. Laws Chapter 23-17.4, entitled "An Act Relating to Assisted Living."
 2. "Administrator" means any person who has responsibility for day to day administration or operation of an assisted living residence.
 3. "Assisted living residence" means a publicly or privately operated residence that provides directly or indirectly by means of contracts or arrangements personal assistance to meet the resident's changing needs and preferences, lodging, and meals to two (2) or more adults who are unrelated to the licensee or administrator, excluding however, any privately operated establishment or facility licensed pursuant to R.I. Gen. Laws Chapter 23-17, and those facilities licensed by or under the jurisdiction of the Department of Mental Health, Retardation, and Hospitals, the Department of Children, Youth, and Families, or any other state agency. The Department shall develop levels of licensure for assisted living residences within this definition as provided in R.I. Gen. Laws § 23-17.4-6. Assisted living residences include sheltered care homes, and board and care residences or any other entity by any other name providing the services listed in this subdivision which meet the definition of assisted living residences.
 4. "Board" means the Assisted Living Residence Administrator Certification Board established pursuant to the provisions of R.I. Gen. Laws § 23-17.4-21.1.

5. "Certification", ~~as used herein, means shall have~~ the same meaning as "licensure."
6. "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.
7. "Department" means the Rhode Island Department of Health.
8. "Director" means the Director of the Rhode Island Department of Health.
9. "Disqualifying information", ~~as defined in R.I. Gen. Laws § 23-17-37,~~ means information produced by a criminal records review pertaining to conviction, for the following crimes will result in a letter to the employee and employer disqualifying the applicant from said employment: murder, voluntary manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years of age or older, child abuse, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against nature), felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, larceny or felony banking law violations.
10. "Licensing agency" means the Rhode Island Department of Health.
11. "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.

18.3 Certification Requirements for Assisted Living Residence Administrators

18.3.1 Certification Requirements

- A. An assisted living residence shall have an administrator who is certified by the Department in accordance with regulations established in this Part, in charge of the maintenance and operation of the residence and the services to the residents.
- B. No person shall act as an assisted living residence administrator unless he or she is the holder of an assisted living residence administrator's certification in accordance with the statutory provisions of the Act and this Part.
- C. The licensing agency shall perform a criminal background records check on any person applying or reapplying for certification as an administrator. If disqualifying

information is found, the licensing agency shall make a judgment regarding certification for that person.

18.3.2 Qualifications for Certification

- A. The Department shall issue a certification as an administrator of an assisted living residence for a period of two (2) years if the applicant meets all of the following requirements:
1. Eighteen years (18) of age or older;
 2. Good moral character;
 3. Initial training that meets one (1) of the following criteria:
 - a. Successful completion of a training program administered by a Department approved organization and successful completion of a residential care assisted living administrator licensing examination as approved by the Department, with a passing grade as determined by the Department; and have satisfactorily completed a field experience of at least eighty (80) hours, within a twelve (12) month period in a training capacity in a Rhode Island-licensed assisted living residence(s) that shall include training in the following areas: Administration, Nursing, Activities Department, Admissions, Dietary Department, Environment/Maintenance.
 - (1) At the conclusion of the field experience, the administrator(s) of the licensed assisted living residence(s) where the field experience was performed shall attest that the training included each area as set forth above; or
 - b. Successful completion of a degree in a health care-related field from an accredited college or university that includes coursework as follows:
 - (1) Gerontology;
 - (2) Personnel management; and
 - (3) Financial management.
 - (4) And have satisfactorily completed a field experience of at least eighty (80) hours, within a twelve (12) month period in a training capacity in a Rhode Island licensed assisted living residence(s) that shall include training in the following areas: Administration, Nursing, Activities Department, Admissions, Dietary Department, Environment/Maintenance.

- (5) At the conclusion of the field experience, the administrator(s) of the licensed assisted living residence(s) where the field experience was performed shall attest that the training included each area.
 - (6) And successful completion of a residential care assisted living administrator licensing examination as approved by the Department, with a passing grade as determined by the Department; or
- c. Possession of a current Rhode Island nursing home administrator's license in good standing.

18.3.3 Application for Certification

- A. Application for certification to practice in this state as an assisted living residence 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 and any required fees 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. Proof of lawful entry into the country:
 - a. For U.S. born applicants, a certified or notarized copy of birth certificate;
 - b. For foreign born applicants, proof of lawful entry into the country and eligibility for employment in the United States.
 2. Good Moral Character: Signed statement on application.
 3. Examinations: the results of any required examination under § 18.3.2 of this Part must be submitted directly to the Department.
 4. Supporting evidence of education and training credentials in accordance with § 18.3.2 of this Part: such documentation must be sent directly from the school or training program to the Department;
 5. One (1) unmounted recent photograph of the applicant (head and shoulder view) approximately 2 x 3 inches in size;
 6. For applicants licensed in another state, the results of the assisted living residence administrator examination must be sent directly from the state of original licensure or the examination service to the Department;
 7. Such other information as the Department may deem necessary.

18.3.4 Certification by Examination / Certification by Endorsement

A. By Examination

1. All applicants, except those applicants licensed under the provisions of § 18.3.2(A)(3)(c) of this Part, shall be required to pass a written examination as determined by the Department to test the qualifications of the applicants to practice as an assisted living residence administrator pursuant to the statutory and regulatory requirements of this Part. Prior to sitting for the written examination, an applicant for certification shall be required to complete all requirements for certification, as approved by the Board, except for passing the examination.
 - a. Applicants who have previously tested unsuccessfully must meet all requirements for licensure prevailing in this state at the time the retest is administered.
 - b. In order to qualify for re-examination after three (3) failures, the applicant must request the same in writing from the Board, at which time requirements (consisting of additional coursework and/or training) for re-examination will be determined and must be fulfilled prior to admittance to a future examination.

B. By Endorsement

1. A certification may be issued to an assisted living residence administrator without examination to an applicant who has been licensed by examination in an alternate jurisdiction and who holds a current license in good standing as an assisted living residence administrator in said jurisdiction, provided:
 - a. The Board finds that the standards for licensure in such other jurisdiction are substantially equivalent to those prevailing in this state at the time of application and the applicant meets the qualifications required of assisted living residence administrators in this state as set forth in § 18.3.2 of this Part;
 - b. The licensing agency in each state in which the applicant holds or has held a registration or license submits to the Board in this state a statement confirming the applicant to be or have been in good standing;
 - c. The applicant submits thirty (30) days prior to the scheduled meeting of the Board, a completed certification application in accordance with the provisions of § 18.3.4 of this Part.

18.3.5 Issuance and Renewal of Certification

- A. Upon the recommendation of the Board, the Director shall issue to applicants who have satisfactorily met the certification requirements of this Part, a certification to an assisted living residence administrator to function as such in this state.
- B. Assisted living residence administrator certification, unless sooner suspended or revoked, shall be valid for a period of two (2) years and shall expire on June 30th of the next even-numbered year thereafter.
 - 1. Every person so certified who wishes to renew his or her certification shall file with the Department by May 1st of the even-numbered years, 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).
- C. In May of every even-numbered year, application for renewal of licensure shall be accompanied by an attestation statement of the licensee's having completed a minimum of thirty-two (32) hours biannually of continuing education as provided in § 18.3.6 of this Part.
 - 1. Assisted living residence administrators initially licensed after the May 1st renewal date shall be exempt from the continuing education requirements stated in this Part until the date of the next renewal cycle (i.e., April 30th of the next even-numbered year).
- D. Any person who allows his or her certification 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 Director upon submission of an application, and upon payment of the current renewal fee, and completion of the continuing education requirements in accordance with § 18.3.6 of this Part within the immediate two (2) years prior to the applicant's request for licensure renewal, unless the certification has been suspended or revoked.
 - 1. Any person using the title of "assisted living residence administrator" or functioning as an assisted living residence administrator during the time that his or her certification has lapsed shall be subject to the penalties for violation of the statutory and regulatory provisions of this Part.

18.3.6 Mandatory Continuing Education Requirements

- A. To be eligible for re-licensure every two (2) years following initial licensure, a certified assisted living residence administrator shall have completed thirty-two (32) hours of Department approved continuing education within the previous two (2) years.

- B. Sixteen (16) hours of the required thirty-two (32) hours of continuing education in a two-year period shall be contact hours. The remaining sixteen (16) hours of continuing education may be non-contact hours.
- C. Approved continuing education programs in assisted-living related areas include those offered or approved by:
 - 1. Rhode Island Association of Facilities and Services for the Aging (RIAFSA);
 - 2. Rhode Island Assisted Living Association (RIALA);
 - 3. Rhode Island Health Care Association (RIHCA);
 - 4. Alliance for Better Long Term Care;
 - 5. Rhode Island Chapter, Alzheimer's Association;
 - 6. Appropriate coursework from any regionally accredited college;
 - 7. A national affiliate of any of the organizations listed above;
 - 8. Any other organizations as may be approved by the Board.
- D. It shall be the sole responsibility of the individual assisted living residence 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.
- E. An extension of time to complete the continuing education requirements may be granted to an assisted living residence administrator solely at the discretion of the Board for reasons of hardship or other extenuating circumstances.

18.3.7 Grounds for Denial, Revocation or Suspension of Certification

- A. The Department may suspend, revoke, or refuse to renew the certification of an assisted living residence administrator for cause, including but not limited to, failure to maintain compliance with the above qualifications, repeated or intentional violations of the Act or this Part, or conviction (including but not limited to a plea of nolo contendere) to charges of resident abuse under the provisions of R.I. Gen. Laws Chapter 23-17.8, or a conviction of a felony, or exploitation.
- B. The Department may deny issuance of a certification, suspend, revoke, or refuse to renew any certification issued under the provisions of the Act and this Part, or may reprimand, censure or otherwise discipline, or may require participation in

continuing education or professional mentoring or may place an administrator on probation, upon decision and after hearing in accordance with § 18.4.2 of this Part upon proof that the licensee engaged in unprofessional conduct which includes but is not limited to:

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;
 2. 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 residents of the residence in which he or she is the administrator;
 3. Has engaged in fraud or deceit in the practice of assisted living residence administration or in his or her admission to such practice;
 4. Has been convicted in a court of competent jurisdiction, either within or without this state, of a felony;
 5. Neglect or misconduct in professional practice;
 6. Any departure from or failure to conform to the minimal standards of acceptable and prevailing practice in assisted living residence administration. Actual injury to a resident need not be established.
- C. If an assisted living residence administrator is placed on probation, the Department may require the licensee to:
1. Report regularly to the Department on matters that are the basis of the probation;
 2. Limit practice to the areas prescribed by the Department; or
 3. Complete a prescribed program of continuing professional education until the licensee attains a degree of skill satisfactory to the Department in those areas that are the basis of the probation.
- D. All hearings and reviews as may be required in this Part shall be conducted in accordance with the provisions of § 18.4.2 of this Part.

18.4 Violations and Penalties/ Practices and Procedures/Severability

18.4.1 Violations and Penalties

Any violations as set forth in § 18.3.7 of this Part shall be cause for the Department to impose such sanctions, or denial, revocation or suspension of certification or imposing a reprimand or censure or such other disciplinary action.

18.4.2 Rules Governing Practices and Procedures

All hearings and reviews required under the provisions of R.I. Gen. Laws Chapter 23-17.4, 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 of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.~~