



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 Chemical Dependency Professionals (216-RICR-40-05-6).

**REGULATION TITLE:**

**RICR Title 216 – Rhode Island Department of Health  
Chapter 40 – Professional Licensing and Facility Regulation  
Subchapter 05 – Professional Licensing  
Part 6 – Chemical Dependency Professionals**

**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 Authority and Incorporated Materials sections, create definitions for Acudetox Specialist, Auricular acudetox, and National Accupuncture Detoxification Association, remove statutory reiteration, remove superfluous language, implement requirements for acudetox specialists, remove notarization/photograph requirements for applications, and revise issuance/renewal of licensure.

**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 **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 § 5-69-5.

**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 Chemical Dependency Professionals (216-RICR-40-05-6) 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 Chemical Dependency Professionals (216-RICR-40-05-6).

<b>Amendment Coordinates</b>	<b>Rationale/Summary of Change</b>
§ 6.1: Creates Authority section.	
§ 6.2: Creates Incorporated Materials section.	
§ 6.3: Create definitions for Acudetox Specialist, Auricular acudetox, and National Accupuncture Detoxification Association, eliminates superfluous definition for RIGL, and places the Practice of substance abuse counseling in alphabetical order.	
§ 6.4.1: Removes statutory reiteration and implements requirements for the practice of auricular acudetox.	
§ 6.4.2: Removes statutory reiteration.	
§ 6.4.3: Clarifies requirements for applications, including removal of notarization and photograph requirements.	
§ 6.4.4: Clarifies requirement for compliance with § 6.4.3(B).	
§ 6.4.5: Revises requirements for issuance/renewal of licensure.	
§ 6.4.6: Removes statutory reiteration and cites to incorporation by reference in § 6.2.	
§ 6.5.1: Removes statutory reiteration and superfluous language regarding complaint processing.	
§ 6.5.3: Removes statutory reiteration.	
Severability and References: Removed as superfluous.	

216-RICR-40-05-6

## TITLE 216 - DEPARTMENT OF HEALTH

### CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION

#### SUBCHAPTER 05 – PROFESSIONAL LICENSING

##### PART 6 – Chemical Dependency Professionals

### **6.1 Authority**

These regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws § 5-69-5 and are adopted for the purpose of establishing prevailing standards for the licensure of chemical dependency professionals and chemical dependency clinical supervisors in this state.

### **6.2 Incorporated Materials**

These regulations hereby adopt and incorporate the Confidentiality of Substance Use Disorder Patient Records. Final Rule. U.S. Department of Health and Human Services, Public Health Service. 42 C.F.R. Part 2 (2017) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

### **6.3 Definitions**

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

1. "ACDP" means an advanced chemical dependency professional certification as per the Rhode Island Board for Certification of Chemical Dependency Professionals requirements.
2. "ACDP II" means an advanced chemical dependency professional II certification as per the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, "ICRC/AODA."
3. "Act" means R.I. Gen. Laws Chapter 5-69, entitled, "Rhode Island Chemical Dependency Professionals Act."
4. "Acudetox specialist" or "ADS" means an individual licensed as a chemical dependency professional or clinical supervisor who holds a certificate of training that meets or exceeds the National Acupuncture Detoxification Association (NADA) training from a recognized agency.

5. "Advertise" includes, but is not limited to, the issuing or causing to be distributed any card, sign, or device to any person; or the causing, permitting, or allowing any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or on radio or television, or by the use of any other means designed to secure public attention.
6. "Approved continuing education" means research and training programs, college and university courses, in-service training programs, seminars and conferences designed to maintain and enhance the skills of substance abuse counselors or clinical supervisors and which are recognized by the ICRC/AODA member board.
7. "Auricular acudetox" means the subcutaneous insertion of sterile, disposable, acupuncture needles in consistent, predetermined, bilateral locations on the ear in accordance with the National Acupuncture Detoxification Association (NADA) protocol.
8. "CDCS" means chemical dependency clinical supervisor.
9. "Clergy" includes any minister, priest, rabbi, Christian Science practitioner, or any other similar religious counselor.
10. "Continuum of care network" means public and private substance abuse care agencies such as detoxification centers, emergency rooms, hospitals, treatment centers, outpatient and day treatment clinics, and community residences for substance abusers. This service employs or refers to medical, psychological, health, and counseling professions that treat substance abuse and related concerns.
11. "Department" means the Rhode Island Department of Health.
12. "Director" means the Director of the Rhode Island Department of Health.
13. "Documented professional work experience" means the ICRC/AODA member board approved form completed by employer or approved supervisor verifying dates of employment and responsibilities.
14. "Experience" means six thousand (6,000) hours of supervised practice of chemical dependency counseling in a Department of Mental Health, Retardation, and Hospitals licensed or ICRC/AODA member board approved facility during a sixty (60) month period of time immediately preceding the date of application for licensure.
15. "ICRC/AODA" means International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse.

16. "Licensed chemical dependency clinical supervisor" means an individual licensed by the Department to practice and supervise substance abuse counseling and who meets the qualifications set forth in the Act and the rules and regulations herein.
  17. "Licensing board" or "Board" means the Board of Licensing for Chemical Dependency Professionals.
  18. "Member board" means the Rhode Island Board for Certification of Chemical Dependency Professionals.
  19. "National Acupuncture Detoxification Association" or "NADA" means the not-for-profit organization that provides a certificate of acudetox training.
  20. "Practice of substance abuse counseling" means rendering or offering to render professional service for any fee, monetary or otherwise, documented to individuals, families or groups. Those professional services include the application of the ICRC/AODA specific knowledge, skills, counseling theory and application of techniques to define goals and develop a treatment plan of action aimed toward the prevention, education or treatment in the recovery process of substance abuse within the continuum of care service network. The practice further includes, but is not limited to, networking and making referrals to medical, social services, psychological, psychiatric, and/or legal resources when so indicated.
  21. "Recognized education institution" means any educational institution which grants an associate, bachelor, masters or doctoral degree and which is recognized by the Board, or by a nationally or regionally recognized educational or professional accrediting organization.
- ~~"RIGL" means Rhode Island General Law, as amended.~~22. "Substance abuse" means addictive (chronic or habitual) consumption, injection, inhalation or behavior of/with substance (such as alcohol and drugs), progressively injuring and afflicting the user's psychological, physical, social, economical and/or spiritual functioning.
23. "Supervision" means no less than one (1) hour per week and shall consist of individual or group supervision with a clinician licensed or certified in substance abuse counseling with education, supervisory experience, and ethics approved by the ICRC/AODA member.~~The practice of substance abuse counseling" means rendering or offering to render professional service for any fee, monetary or otherwise, documented to individuals, families or groups. Those professional services include the application of the ICRC/AODA specific knowledge, skills, counseling theory and application of techniques to define goals and develop a treatment plan of action aimed toward the prevention, education or treatment in the recovery~~

~~process of substance abuse within the continuum of care service network. The practice further includes, but is not limited to, networking and making referrals to medical, social services, psychological, psychiatric, and/or legal resources when so indicated.~~

## 6.4 Chemical Dependency Professional Licensing Requirements

### 6.4.1 Licensure Requirements

- A. Any individual licensed under the provisions of the Act and this Part may use the title "licensed chemical dependency professional" and the abbreviation "LCDP" or the title "licensed chemical dependency clinical supervisor" and the abbreviation "LCDCS" provided that the title and abbreviation correspond to the license held pursuant to the Act.
- B. No individual shall represent herself/himself as a "licensed chemical dependency professional", "LCDP" or, a "licensed chemical dependency clinical supervisor", "LCDCS", unless she/he ~~is~~ holds the corresponding appropriate licensed ~~as a~~ "licensed chemical dependency professional" as set forth in R.I. Gen. Laws § 5-69-3(b). pursuant to the Act and ~~provided that the title and abbreviation correspond to the licensed help pursuant to the Act.~~
- C. No individual shall represent herself/himself as an "acudetox specialist" or perform auricular acudetox as defined in § 6.3(A)(7) of this Part unless he/she holds a certificate of training that meets or exceeds the NADA training from a recognized agency; and is licensed under the provisions of the Act and this Part as a "licensed chemical dependency professional" or a "licensed chemical dependency clinical supervisor".

### 6.4.2 Qualifications for Licensure

The Department shall issue the appropriate license to applicants who meet the qualifications for the license as specified in R.I. Gen. Laws § 5-69-8.

~~Licensed chemical dependency professional: Any individual desiring to obtain a license as a licensed chemical dependency professional shall be currently certified as an advanced chemical dependency professional or an advanced chemical dependency professional II in accord with the ICRC/AODA member board standards, as a prerequisite for submitting the application to the licensing Board.~~

~~Licensed chemical dependency clinical supervisor: Any individual desiring to obtain a license as a licensed chemical dependency clinical supervisor shall be currently certified as an advanced chemical dependency professional or advanced chemical dependency professional II, have completed the ICRC/AODA member board standards for the chemical dependency clinical supervisor, and submit an application to the licensing Board.~~

~~Other: An applicant having a comparable license, certification, or reciprocity within Rhode Island or from another state or territory of the United States that imposes qualifications substantially similar to those of the Act, as determined by the licensing Board.~~

~~In addition to the requirements of § 3.2A, an applicant for any of the above titles must prove to the licensing Board's satisfaction:~~

~~Good moral character which is a continuing requirement for licensure;~~

~~United States citizenship or status as a legal resident alien;~~

~~Absence of a sanction from the National Association of Alcohol and Drug Abuse Counselors or the ICRC/AODA member board sanction for violation of the Code of Ethics or other related state board which shall be waived by the Board upon presentation of satisfactory evidence that such sanction does not impair the ability of the person to conduct with safety to the public the practice authorized by this license. The applicant shall bear the burden of proving that his/her sanction does not impair his/her ability to conduct with safety to the public the practice authorized by this license;~~

### **6.4.3 Application for Licensure and Fees**

A. Application for license to practice as a licensed chemical dependency professional or licensed chemical dependency clinical supervisor shall be made on forms provided by the Department, which shall be completed and submitted to the Board.

~~Application for license to practice as a licensed chemical dependency professional or licensed chemical dependency clinical supervisor shall be made on forms provided by the Department, which shall be completed, notarized and submitted to the Board thirty (30) days prior to the scheduled date of the Board meeting at which they are to be reviewed.~~

B. ~~Such~~The application shall be accompanied by the following:

1. For U.S. born applicants: a certified copy of birth certificate;
2. For Non-U.S. born applicants: documented evidence of lawful entry into the country;
3. Verification of current certification at the appropriate level from the ICRC/AODA member board;
- ~~1. Passport type photograph of the applicant;~~



4. A non-refundable, non-returnable [application license](#) 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).
5. ~~Sworn~~**Certified** statement that the applicant is free of sanctions, felony convictions, mentally incompetent decrees and/or the use of any controlled substance or any alcoholic beverage to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by this license, in accordance [with R.I. Gen. Laws §§ 5-69-8\(b\)\(3\), 5-69-8\(b\)\(4\), 5-69-8\(b\)\(5\), and 5-69-8\(b\)\(6\)](#).~~3.2B.3, 3.2B.4, 3.2B.5, and 3.2B.6 herein.~~

#### **6.4.4 Endorsement for Licensure as a Licensed Chemical Dependency Professional and Licensed Chemical Dependency Clinical Supervisor**

- A. ~~Without Examination by~~[Licensure By](#) Endorsement:
  1. [License application with accompanying documents and fee as required in § 6.4.3\(B\) of this Part;](#)
  2. If applicable, a statement from the certification board in each state in which the applicant has held or holds licensure to be submitted to the Rhode Island ICRC/AODA member board, attesting to the licensure status of the applicant during the time period the applicant held licensure in said state;
  3. A statement from the licensing/certification board in the jurisdiction upon which endorsement is to be based setting forth the requirements for licensure/certification in that jurisdiction. Said requirements shall be substantially similar to those in place in Rhode Island at the time of application. This determination shall be made by the licensing board.

#### **6.4.5 Issuance and Renewal of License**

- A. The Department, on recommendation of the Board of Chemical Dependency Professionals, shall issue licenses to those qualified under the Act. ~~Said~~[The](#) license, unless sooner suspended or revoked, shall expire on the first day of October of each even-numbered year following the date of issuance of the original license.
- B. ~~On or before the first day of August of each even-numbered year, the Department shall make an application available for renewal of license to every person to whom a license has been issued or renewed during the current licensure period.~~ Every [licensed](#) person ~~so licensed~~ who desires to renew his/her license shall file ~~with the Department such a~~ renewal application [with the Department](#), ~~duly executed~~, together with a non-refundable 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) on or before the ~~fifteenth-thirtieth~~ (15th)(30th) day of September of each even-numbered year.

- C. Applicants for license renewal shall submit evidence of current certification by the Rhode Island Board of Certification of Chemical Dependency Professionals and the continuing education requirements necessary to maintain said certification.

#### **6.4.6 Privilege Exemptions**

- A. Privilege exemptions are in accordance with the provisions set forth in R.I. Gen. Laws § 5-69-4(b).
- B. No person licensed under the Act and this Part or an employee of a licensee may disclose any information acquired from clients or persons consulting with the licensee to render professional services except under the provisions of the federal regulation 42 C.F.R. Part 2, incorporated by reference above at § 6.2 of this Part.

### **6.5 ~~Grounds for Denial, Suspension, and Revocation of Licenses and or Violations~~ Procedures for Discipline, Complaints and Severability**

#### **6.5.1 Grounds for Denial, Suspension or Revocation of License/Violations**

Licensees subject to the Act shall conduct their activities, services and practice in accordance with the Act and this Part. The licensing board may recommend to the Director refusal to grant a license to, or to suspend, revoke, condition, limit, qualify, or restrict the license of any individual for grounds as set forth in R.I. Gen. Laws § 5-69-10, or and for grounds who the licensing Board or its designee, after a hearing, determines that the individual has departed from or failed to conform to the current standards of acceptable and prevailing practice of substance abuse counseling.:

~~Is incompetent to practice under the provisions of the Act, or is found to engage in the practice of chemical dependency counseling and/or supervision in a manner harmful or dangerous to a client or to the public;~~

~~Has obtained or attempted to obtain a license, or renewal therefore, by bribery or fraudulent representation;~~

~~Has knowingly made a false statement on a form required by the licensing board;~~

~~Has failed to obtain the continuing education credits necessary for relicensing;~~

~~Has engaged in sexual relations with a current client, solicited sexual relations with a current client, or committed an act of sexual abuse, or sexual misconduct with a current client;~~

~~Has failed to remain free from the use of any controlled substance or any alcoholic beverages to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by this license. The applicant shall bear the burden of proving that he/she is free from use of any controlled substance or any alcoholic beverages which impair his/her ability to conduct with safety to the public the practice authorized by this license;~~

~~Has been convicted of a felony, which shall be waived by the Board upon presentation of satisfactory evidence that such conviction does not impair the ability of the person to conduct with safety to the public the practice authorized by this license. The applicant shall bear the burden of proving that his/her conviction does not impair his/her ability to conduct with safety to the public the practice authorized by this license;~~

~~Has disciplinary action pending or has revocation, suspension or probation taken against the licensee in Rhode Island or another state or territory of the United States;~~

~~Has failed to maintain confidentiality per federal regulation 42 CFR, part 2 of Reference 1;~~

~~Has engaged in false or misleading advertising;~~

~~Has a mental disability which significantly impairs the ability or judgment (The order of a court that licensee is in need of mental treatment for incompetency shall continue the mental disability).~~

~~Has violated the provisions of the Act or any of the rules and regulations or any provisions of any code of ethics adopted by the Board.~~

~~Has departed from or failed to conform to the current standards of acceptable and prevailing practice of substance abuse counseling.~~

#### Complaints

~~All complaints concerning a licensee's business or professional practice shall be received by either the licensing board or the Department. Each complaint received shall be logged, recording at a minimum, the following information:~~

~~Licensee's name;~~

~~Name of the complaining party;~~

~~Date of complaint;~~

~~Brief statement of complaint; and~~

~~Disposition.~~

## 6.5.2 Disciplinary Process

- A. Disciplinary procedures under the Act shall be conducted in accordance with R.I. Gen. Laws Chapter 42-35.
- B. The licensing board, or its designee, shall hear evidence produced in support of the formal charges and contrary evidence produced by the licensee. At the conclusion of the hearing, the licensing board shall make recommendations to the Director who shall issue an order.

## 6.5.3 Disciplinary Sanctions

The licensing board may recommend that the Director impose any ~~of the following~~ sanctions set forth in R.I. Gen. Laws § 5-69-13, singly or in combination when it finds that a licensee is guilty of any offenses in § 6.5.1 of this Part.

~~described in this section:~~

~~Revocation of the license;~~

~~Suspension of the license for any period of time;~~

~~Censure of the licensee;~~

~~Issue a letter or reprimand;~~

~~Place a licensee on probationary status and require the licensee to submit to any of the following:~~

~~Report regularly to the licensing Board upon matters which are the basis of probation;~~

~~Continue to renew professional education until a satisfactory degree of skill has been attached in those areas which are basis of probation;~~

~~Attend employee assistance counseling services.~~

~~Refuse to renew a license;~~

~~Revoke probation which has been granted and impose any other discipline provided in this section when the requirements of probation have not been fulfilled or have been violated.~~

~~The Director may reinstate any licensee to good standing under the Act, if after hearing, the Department is satisfied that the applicant's renewed practice is in the public interest.~~

~~Upon the suspension or revocation of a license issued under the Act, a licensee shall be required to surrender the license to the Director and upon failure to do so, the Director shall have the right to seize the same.~~

~~The Director may make available annually a list of the names and addresses of all licensees under the provisions of the Act, and of all persons who have been disciplined within the preceding twelve (12) months.~~

~~Any persons convicted of violating the provisions of the Act shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00), imprisonment for not more than one (1) year, or both.~~

#### **6.5.4 Rules Governing Practices and Procedures**

All hearing and reviews required under the provisions of R.I. Gen. Laws Chapter 5-69, shall be held in accordance with the provisions of the Act and of the rules and regulations regarding Practices and Procedures Before the Department of Health (Part 10-05-4 of this Title) and Access to Public Records (Part 10-05-1 of this Title). [Severability](#)

~~The provisions of the Act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of that court shall not affect or impair any of the remaining provisions.~~

~~Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health, Rhode Island Department of Health, April 2004 and subsequent amendments thereto. Available online:  
[http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH\\_2945.pdf](http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_2945.pdf)~~