



Rhode Island Department of Health

PUBLIC NOTICE

The Director of the Rhode Island Department of Health has determined to amend the rules and regulations listed below to remove the specific dollar value of all fees for licensing, laboratory and administrative services provided by the Department of Health from the individual regulations and reference all such fees to a new consolidated fee regulation (to be promulgated separately). These amendments are proposed pursuant to the authority contained in Public Law 2012-241, enacted by the General Assembly on 15 June 2012, and the relevant sections of the respective professional practice and licensure acts.

The following seventy-five (75) regulations are proposed to be amended:

1. Food Code
2. Rules and Regulations Establishing Educational and Experience Requirements for Registration as a Sanitarian
3. Rules and Regulations for Asbestos Control
4. Rules and Regulations for Bottled Water
5. Rules and Regulations for Certifying Analytical Laboratories
6. Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Services
7. Rules and Regulations for Lead Poisoning Prevention
8. Rules and Regulations for Licensing Assisted Living Residences
9. Rules and Regulations for Licensing Athletic Trainers
10. Rules and Regulations for Licensing Birth Centers
11. Rules and Regulations for Licensing Chemical Dependency Professionals
12. Rules and Regulations for Licensing Clinical Laboratories and Stations
13. Rules and Regulations for Licensing Clinical Social Workers and Independent Clinical Social Workers
14. Rules and Regulations for Licensing Doctors of Acupuncture and Acupuncture Assistants
15. Rules and Regulations for Licensing Home Nursing Care Providers and Home Care Providers
16. Rules and Regulations for Licensing Hospice Care
17. Rules and Regulations for Licensing Interpreters for the Deaf
18. Rules and Regulations for Licensing Kidney Disease Treatment Centers
19. Rules and Regulations for Licensing Massage Therapists
20. Rules and Regulations for Licensing Mental Health Counselors and Marriage and Family Therapists
21. Rules and Regulations for Licensing Occupational Therapists and Occupational Therapy Assistants
22. Rules and Regulations for Licensing of Hospitals
23. Rules and Regulations for Licensing of Midwives
24. Rules and Regulations for Licensing of Nursing Facilities
25. Rules and Regulations for Licensing of Nursing Home Administrators
26. Rules and Regulations for Licensing Physical Therapists and Physical Therapist Assistants
27. Rules and Regulations for Licensing Psychologists
28. Rules and Regulations for Licensing Rehabilitation Hospital Centers

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29. Rules and Regulations for Licensing Respiratory Care Practitioners
30. Rules and Regulations for Licensing Speech Pathologists and Audiologists
31. Rules and Regulations for Licensing Swimming and Wading Pools, Hot Tubs, and Spas
32. Rules and Regulations for Licensure and Discipline of Chiropractic Physicians
33. Rules and Regulations for Limited Medical Registration
34. Rules and Regulations for Radon Control
35. Rules and Regulations for the Certification of Administrators of Assisted Living Residences
36. Rules and Regulations for the Certification of Health Plans
37. Rules and Regulations for the Control of Radiation
38. Rules and Regulations for the Licensing of Freestanding Ambulatory Surgical Centers
39. Rules and Regulations for the Licensing of Freestanding Emergency Care Facilities
40. Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs
41. Rules and Regulations for the Licensing of Nursing Service Agencies
42. Rules and Regulations for the Licensing of Organized Ambulatory Care Facilities
43. Rules and Regulations for the Licensing of Podiatrists
44. Rules and Regulations for the Licensing of Radiographers, Nuclear Medicine Technologists, Radiation Therapists and Radiologist Assistants
45. Rules and Regulations for the Licensure and Discipline of Physicians
46. Rules and Regulations for the Licensure of Barbers, Hairdressers/Cosmeticians, Manicurists, Estheticians, and Instructors
47. Rules and Regulations for the Licensure of Clinical Laboratory Science Practitioners
48. Rules and Regulations for the Licensure of Physician Ambulatory Surgery Centers and Podiatry Ambulatory Surgery Centers
49. Rules and Regulations for the Licensure of Physician Assistants
50. Rules and Regulations for the Licensure of Veterinarians
51. Rules and Regulations for the Registration of Body Piercing Technicians and Body Piercing Establishments
52. Rules and Regulations for the Registration of Distributors of Controlled Substances in Rhode Island
53. Rules and Regulations for the Registration of Tanning Facilities
54. Rules and Regulations for the Registration of Tattoo Artists and Tattoo Parlors
55. Rules and Regulations for the Utilization Review of Health Care Services
56. Rules and Regulations Governing Vital Statistics
57. Rules and Regulations Pertaining to Certification of Managers in Food Safety
58. Rules and Regulations Pertaining to Dentists, Dental Hygienists, and Dental Assistants
59. Rules and Regulations Pertaining to Embalmers, Funeral Directors, and Funeral Service Establishments
60. Rules and Regulations Pertaining to Opticians
61. Rules and Regulations Pertaining to Optometrists
62. Rules and Regulations Pertaining to Permits for Screening Programs
63. Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers, and Distributors
64. Rules and Regulations Pertaining to Public Drinking Water
65. Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs
66. Rules and Regulations Pertaining to the Certification of Public Drinking Water Supply Treatment and Public Water Supply Transmission and Distribution Operators

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67. Rules and Regulations Pertaining to the Licensing of Dietitians/Nutritionists
 68. Rules and Regulations Pertaining to the Medical Examiner System
 69. Rules and Regulations Pertaining to the Newborn Metabolic, Endocrine, and Hemoglobinopathy Screening Program and the Newborn Hearing Loss Screening Program
 70. Rules and Regulations Pertaining to the Processing and Distribution of Shellfish
 71. Rules and Regulations Prescribing Minimum Standards for Processing, Storage and Transportation of Fish and Fishery Products
 72. Rules and Regulations Related to the Licensure of Hearing Aid Dealers and Fitters
 73. Rules and Regulations Related to the Medical Marijuana Program
 74. Rules and Regulations Related to the Practice of Electrolysis
 75. Rules and Regulations Relating to Emergency Medical Services
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Notice is hereby given in accordance with the provisions of §42-35-3(a)(2) of the Rhode Island General Laws, as amended, that the Director is affording all interested persons the opportunity to submit data, views, or arguments in writing on this matter. Opportunity for public hearing shall be granted if requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members. *Otherwise, no hearing shall be convened.* Should a hearing be requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members, *a hearing shall be scheduled only for the regulation(s) for which the request for hearing was received.* All regulations for which a public hearing is not requested will be filed with the Rhode Island Secretary of State pursuant to Chapter 42-35 of the Rhode Island General Laws, as amended, shortly after the **10 September 2012** deadline (as below).

Such input or requests for public hearing must be received in writing **no later than Monday, 10 September 2012**. Such input or requests should be addressed to: Michael Fine, M.D., Director, Rhode Island Department of Health, Three Capitol Hill, Room #401, Providence, Rhode Island 02908-5097.

In the development of these amendments, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach, duplication, or overlap was identified based upon available information.

Copies of all regulations are available for public inspection in the Cannon Building, Room #201, Rhode Island Department of Health, Three Capitol Hill, Providence, Rhode Island 02908-5097, on the Secretary of State's website: <http://www.sos.ri.gov/rules/>, by calling 401-222-7767, or by e-mail to Bill.Dundulis@health.ri.gov.

Signed this 3rd day of August 2012

Original signed by Michael Fine, MD

Michael Fine, M.D., Director of Health

RULES AND REGULATIONS
FOR THE CERTIFICATION
OF ADMINISTRATORS OF
ASSISTED LIVING RESIDENCES
(R23-17.4-ALA)



STATE OF RHODE ISLAND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH
SEPTEMBER 2003

As amended:

January 2006

January 2007 (re-filing in
accordance with the provisions
of section 42-35-4.1 of the
Rhode Island General Laws,
as amended)

September 2007

January 2012 (re-filing in
accordance with the provisions of
section 42-35-4.1 of the Rhode Island
General Laws, as amended)

August 2012 (Proposed)

COMPILER'S NOTES:

Proposed Additions: Underlined

Proposed Deletions: ~~Strikeouts~~

INTRODUCTION

These Rules and Regulations for the Certification of Administrators of Assisted Living Residences (R23-17.4-ALA) are promulgated pursuant to the authority set forth in section 23-17.4-21.2 of the General Laws of Rhode Island, as amended, and are established for the purpose of establishing prevailing standards for the licensure of assisted living residence administrators in Rhode Island.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following issues have been given consideration in arriving at the regulations in the best interest of the public health and welfare: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. No known overlap or duplication, no alternative approach nor any significant economic impact was identified.

These regulations shall supercede any previous regulation related to the certification of assisted living residence administrators promulgated by the Department of Health and filed with the Rhode Island Secretary of State.

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PART I *Definitions*

Section 1.0 *Definitions*

Wherever used in these rules and regulations the following terms shall be construed as follows:

- 1.1 **"Act"** means Chapter 23-17.4 of the General Laws of Rhode Island, as amended, entitled "An Act Relating to Assisted Living."
- 1.2 **"Administrator"** means any person who has responsibility for day to day administration or operation of an assisted living residence.
- 1.3 **"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 Chapter 17 of this title, 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 section 23-17.4-6 of the Rhode Island General Laws, as amended. 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.
- 1.4 **"Board"** means the Assisted Living Residence Administrator Certification Board established pursuant to the provisions of section 23-17.4-21.1 of the Act.
- 1.5 **"Certification"**, as used herein, shall have the same meaning as "licensure."
- 1.6 **"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.
- 1.7 **"Department"** means the Rhode Island Department of Health.
- 1.8 **"Director"** means the Director of the Rhode Island Department of Health.
- 1.9 **"Disqualifying information"**, as defined in Chapter 23-17-37 of the Rhode Island General Laws, as amended, 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.
- 1.10 **"Licensing agency"** means the Rhode Island Department of Health.

1.11 “*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.

PART II *Certification Requirements for Assisted Living Residence Administrators*

Section 2.0 *Certification Requirements*

- 2.1 An assisted living residence shall have an administrator who is certified by the Department in accordance with regulations established herein, in charge of the maintenance and operation of the residence and the services to the residents.
- 2.2 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 the rules and regulations herein.
- 2.3 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.

Section 3.0 *Qualifications for Certification*

- 3.1 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:
 - a) eighteen years (18) of age or older;
 - b) good moral character;
 - c) initial training that meets one (1) of the following criteria:
 - i) 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.

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

- ii) 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.

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.

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.

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

- iii) Possession of a current Rhode Island nursing home administrator's license in good standing.

Section 4.0 *Application For Certification*

4.1 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 *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*:

- a) Proof of lawful entry into the country:
for U.S. born applicants, a certified or notarized copy of birth certificate;
for foreign born applicants, proof of lawful entry into the country and eligibility for employment in the United States.
- b) Good Moral Character: Signed statement on application.
- c) Examinations: the results of any required examination under section 3.0 must be submitted directly to the Department.
- d) Supporting evidence of education and training credentials in accordance with section 3.0 herein: such documentation must be sent directly from the school or training program to the Department;
- e) One (1) unmounted recent photograph of the applicant (head and shoulder view) approximately 2 x 3 inches in size;
- f) 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;

- g) such other information as the Department may deem necessary.

Section 5.0 *Certification By Examination / Certification By Endorsement*

By Examination

- 5.1 All applicants, except those applicants licensed under the provisions of section 3.1(c)(iii) above, 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 herein. 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.
 - 5.1.1 Applicants who have previously tested unsuccessfully must meet all requirements for licensure prevailing in this state at the time the retest is administered.
 - 5.1.2 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.

By Endorsement

- 5.2 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:
 - 5.2.1 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 section 3.0 herein;
 - 5.2.2 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;
 - 5.2.3 the applicant submits thirty (30) days prior to the scheduled meeting of the Board, a completed certification application in accordance with the provisions of section 4.0 herein.

Section 6.0 *Issuance and Renewal of Certification*

- 6.1 Upon the recommendation of the Board, the Director shall issue to applicants who have satisfactorily met the certification requirements herein, a certification to an assisted living residence administrator to function as such in this state.

- 6.2 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.
- 6.2.1 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 ~~of two hundred dollars (\$200.00) made payable to the General Treasurer, State of Rhode Island.~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*
- 6.3 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 section 7.0 herein.
- 6.3.1 Assisted living residence administrators initially licensed after the May 1st renewal date shall be exempt from the continuing education requirements stated herein until the date of the next renewal cycle (i.e., April 30th of the next even-numbered year).
- 6.4 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 section 7.0 herein within the immediate two (2) years prior to the applicant's request for licensure renewal, unless the certification has been suspended or revoked.
- 6.4.1 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 herein.

Section 7.0 ***Mandatory Continuing Education Requirements***

- 7.1 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.
- 7.2 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.
- 7.3 Approved continuing education programs in assisted-living related areas include those offered or approved by:
- a) Rhode Island Association of Facilities and Services for the Aging (RIAFSA);
 - b) Rhode Island Assisted Living Association (RIALA);
 - c) Rhode Island Health Care Association (RIHCA);
 - d) Alliance for Better Long Term Care;
 - e) Rhode Island Chapter, Alzheimer's Association;

- f) Appropriate coursework from any regionally accredited college;
- g) A national affiliate of any of the organizations listed above;
- h) Any other organizations as may be approved by the Board.

7.4 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.

7.5 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.

Section 8.0 *Grounds for Denial, Revocation or Suspension of Certification*

8.1 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 these regulations, or conviction (including but not limited to a plea of nolo contendere) to charges of resident abuse under the provisions of Chapter 23-17.8 of the Rhode Island General Laws, as amended, or a conviction of a felony, or exploitation.

8.2 The Department may deny issuance of a certification, suspend, revoke, or refuse to renew any certification issued under the provisions of the Act and the regulations herein, 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 section 10.0 upon proof that the licensee engaged in unprofessional conduct which includes but is not limited to:

- a) 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;
- b) Is in violation of any of the provisions of the Act or the rules herein, 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;
- c) Has engaged in fraud or deceit in the practice of assisted living residence administration or in his or her admission to such practice;
- d) Has been convicted in a court of competent jurisdiction, either within or without this state, of a felony;
- e) Neglect or misconduct in professional practice;

- f) 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.
- 8.3 If an assisted living residence administrator is placed on probation, the Department may require the licensee to:
- a) Report regularly to the Department on matters that are the basis of the probation;
 - b) Limit practice to the areas prescribed by the Department; or
 - c) 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.
- 8.4 All hearings and reviews as may be required herein shall be conducted in accordance with the provisions of section 10.0 of these rules and regulations.

PART III *Violations and Penalties/ Practices and Procedures/ Severability*

Section 9.0 *Violations and Penalties*

9.1 Any violations as set forth in section 8.0 herein 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.

Section 10.0 *Rules Governing Practices and Procedures*

10.1 All hearings and reviews required under the provisions of Chapter 23-17.4 of the General Laws of Rhode Island, as amended, shall be held in accordance with the provisions of the Act and the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Rhode Island Department of Health and Access to Public Records of the Department of Health* (R42-35-PP).

Section 11.0 *Severability*

11.1 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.

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Monday, 30 July 2012