



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 LICENSING

MASSAGE THERAPISTS

(R23-20.8-MA)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Health

November 1979

As Amended

October 1980

May 1983

March 1993

February 1994

November 2001

January 2002 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

March 2002

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

January 2009

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 are promulgated pursuant to the authority conferred under section 23-20.8-4 of the General Laws of Rhode Island of, as amended, and are established for the purpose of defining prevailing standards for the licensure of massage therapists consistent with statutory provisions.

In accordance with the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, in the development of the regulations, consideration was to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on the available information, no known alternative approach, duplication, or overlap was identified.

These amended rules and regulations shall supersede any other rules and regulations pertaining to the practice of massage therapy promulgated by the Department of Health and filed with the Secretary of State.

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PART I *Licensing Requirements for Massage Therapists*

Section 1.0 *Definitions*

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

- 1.1 “**Act**” means Chapter 23-20.8 of the Rhode Island General Laws, as amended.
- 1.2 “**Approved school**” means any school or institution of learning that is approved by the Commission on Massage Therapy Accreditation (COMTA) or an equivalent academic and training program meeting the requirements of section 3.2 herein as approved by the Director.
- 1.3 “**Department**” means the Rhode Island Department of Health.
- 1.4 “**Director**” means the Director of the Rhode Island Department of Health.
- 1.5 “**Disqualifying information**” means information produced by a criminal records review pertaining to conviction, for the following crimes that 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.
- 1.6 “**Licensing agency**” means the Rhode Island Department of Health.
- 1.7 “**Massage therapist**” means a person engaged in the practice of massage who has completed a program in or is certified by a school or institution of learning that is approved by the Commission on Massage Therapy Accreditation (COMTA) or equivalent academic and training program meeting the requirements of section 3.2 herein as approved by the Director, other than a correspondence course, which school or institution has for its purpose the teaching of the theory, practice, method, profession, or work of massage, including at least anatomy, physiology, hygiene and professional ethics, pursuant to the statutory provisions.
- 1.8 “**Person**” means any individual, group of individuals, firm, corporation, association, partnership or private or public entity, including a district, county, city, town or other governmental unit or agent thereof, and in the case of a corporation, any individual having active or general supervision of properties of such and corporation.
- 1.9 “**Physical fitness facility**” means any bona fide health club which offers or provides facilities for any instruction in controlled exercise, weight lifting, and calisthenics and its gross income from massages is less than ten percent (10%) of the total gross business income derived from all physical fitness sales contracts at any one location.
- 1.10 “**The practice of massage**” means engaging in applying a scientific system of activity to the

muscular structure of the human body by means of stroking, kneading, tapping and vibrating with the hands or vibrators for the purpose of improving muscle tone and circulation.

Section 2.0 *License Requirements*

2.1 Any individual practicing or offering to practice massage, except persons exempt under the provisions of section 23-20.8-9 of the General Laws of Rhode Island, as amended, and section 2.1.1 herein shall be required to submit evidence that such individual is qualified to practice massage therapy and shall be licensed as herein provided in order to safeguard the general welfare of the public.

Persons Exempt

2.1.1 Nothing contained in the Act shall prohibit:

- (1) The practice of massage by any person who is authorized to practice medicine, nursing, osteopathy, physiotherapy, chiropractic, or podiatry in this state.
- (2) The practice of that massage which is customarily given in barber shops or beauty parlors for the purpose of beautification by any licensed barber, hairdresser, or cosmetician.
- (3) The practice of massage by any person employed in a medical institution licensed or chartered by the state or enrolled in a program of a school or institute of massage approved by the board of regents.
- (4) The practice of massage by any person duly employed as a trainer by a professional athletic association, club, or team, or as a member of the physical education department of an accredited university, college, or high school.
- (5) The practice of massage by any person in a physical fitness facility operated by a corporation or association organized exclusively for the moral or mental improvement of men, women, or children.

2.2 It shall be unlawful for any individual to practice or to offer to practice massage in this state, or to use any title, abbreviation, sign, card or device, or to indicate that such individual is practicing massage unless such individual has been duly licensed as a massage therapist, in accordance with section 23-20.8-2 of the General Laws of Rhode Island, as amended, and the rules and regulations herein, except those exempted under Chapter 23-20.8 of the General Laws of Rhode Island, as amended and section 2.1.1 herein.

2.2.1 Furthermore, no person, firm, partnership or corporation shall describe its services under the title "massage" or "massage therapy" unless such services are defined in section 23-20.8-1 of the General Laws of Rhode Island, as amended, and section 1.0 herein, are performed by a person licensed to practice massage hereunder, and if described as "massage therapy", by a massage therapist.

Section 3.0 *Qualifications For Licensure*

3.1 An applicant for a license to practice massage therapy in Rhode Island shall:

- a) be over eighteen (18) years of age;
- b) be of good moral character;
- c) be a graduate of a program in or be certified by a school or institution of learning approved by the Commission on Massage Therapy Accreditation (COMTA) or equivalent academic or training program meeting the requirements of section 3.2 herein. Transcripts shall be sent directly from the school to the Department.
- d) have successfully completed the National Certification Examination for Therapeutic Massage and Body Work or the National Certification Examination for Therapeutic Massage of the National Certification Board for Therapeutic Massage and Bodywork; or other examination as approved by the Department.

Equivalency Program:

3.2 An applicant who has successfully completed educational and practical training preparation in a massage therapy program shall be judged to hold the equivalent academic and training preparation in massage therapy if the applicant has:

3.2.1 Taken an educational program whose purpose was the preparation of massage therapists and that consisted of an organized program of theoretical study and training in either an education institution or school approved and/or accredited by the state or other credentialing body, in which the program is located:

3.2.2 Furthermore, the curriculum shall have consisted of at least five hundred (500) hours which included study and practical training specifically designed to provide knowledge and skills necessary for the practice of massage. The content of the five hundred (500) hour program shall include no less than the following:

a) ***Classroom Hours Subjects*** (including practical training):

100 (Theory) anatomy/physiology

300 Theory and practice of massage therapy
Applied anatomy/ physiology, including 150 hours of the 300 hours to be the practice of massage, as defined in section 1.10.

100 Elective subjects, including first aid and cardiopulmonary resuscitation {CPR}, and any of the following: business practices/law, office procedures, ethics, professionalism.

- b) Successfully completed the National Certifying Examination for Therapeutic Massage and Body Work of the National Certifying Council for Massage Therapy or the National Certification Examination for Therapeutic Massage; or other examination as approved by the Department.

3.2.3 Correspondence courses shall not be recognized as acceptable equivalents.

3.3 An applicant who has completed a program in a school or institute of massage outside of the United States shall submit evidence of having graduated from a school or institute of massage whose curriculum is substantially equivalent to the requirements of section 3.2 herein and of holding a license to practice massage from a given foreign country, and in addition may be subject to such examination, as may be deemed necessary by the Director.

3.4 A license to practice massage as a massage therapist may be issued to an applicant who has been duly licensed as a massage therapist under the law of another state, if in the opinion of the Director, the applicant meets the qualifications required for massage therapists in this state.

Section 4.0 *Application for Licensure and Fee*

4.1 Application for licensure shall be made on such forms as shall be provided by the licensing agency and shall be accompanied by the following documents:

- a) For those born in the U.S.: A certified copy of birth certificate;
For those born outside the U.S.: Proof of lawful entry into the country.
- b) a recent passport-type photograph;
- c) the initial licensure fee of fifty dollars (\$50.00) 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.*
- d) supporting credentials of education, training, and other requirements of section 3.0 herein; and
- e) results of a criminal background check. Applicants shall apply to the bureau of criminal identification of the state police or local police department for a nationwide criminal records check. Fingerprinting shall be required. Upon the discovery of any disqualifying information as defined herein, the bureau of criminal identification of the state police or the local police department shall inform the applicant, in writing, of the nature of the disqualifying information. The applicant shall be responsible for payment of the costs of the criminal records check.

Section 5.0 *Issuance and Renewal of License and Fee*

5.1 Upon approval, the licensing agency shall issue a license or renewal thereof, for a period of one (1) year. Said license, unless sooner suspended or revoked, shall expire by limitation on the 30th day

of June following its issuance and may be renewed from year to year after approval by the licensing agency, provided the applicant meets the requirements of the rules and regulations herein and the statutory provisions of Chapter 23-20.8 of the General Laws of Rhode Island, as amended.

- 5.2 An annual license renewal fee of ~~fifty dollars (\$50.00) 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* shall accompany each application for licensure renewal.
- 5.3 Any licensee who allows his or her license to lapse may have same reinstated by submitting to the licensing agency an application and accompanying documents and fee as required under sections 4.0 and 5.0 herein.

Section 6.0 *The Practice of Massage*

- 6.1 The license to practice massage authorizes the holder to engage in applying a scientific system of activity as defined in section 1.10 herein and in accordance with the provisions of Chapter 23-20.8 of the General Laws of Rhode Island, as amended.
- 6.2 Only individuals licensed in Rhode Island under the provisions of Chapter 23-20.8 of the General Laws of Rhode Island, as amended, and the rules and regulations herein, shall practice massage and use the title “Massage Therapist.” No person, firm, partnership or corporation shall describe its services in any manner under the title ‘massage’ unless such services as defined hereunder are performed by a person licensed to practice massage. Only a person licensed under Chapter 23-20.8 of the Rhode Island General Laws, as amended, and the rules and regulations herein, as a massage therapist may use the title “massage therapist.”
- 6.3 Licensed practitioners shall maintain and be governed by acceptable sanitary, safe and scientific standards of practice with special attention to the following:
- a) heliotherapy shall be administered only by a licensed physical therapist;
 - b) massage therapists shall not diagnose, treat classified disease, practice spinal or joint manipulation, prescribe medicine or drugs;
 - c) mechanical apparatus or equipment such as heat lamps, hot and cold packs, tub and special showers, cabinet baths, steam and dry heat baths and the like, shall be utilized only by and under constant direct supervision of a licensed massage therapist;
 - d) no part of a percussor, vibrator or other device (mechanical or otherwise) that cannot be properly sterilized or sanitized shall be applied directly to the skin without a protective covering;
 - e) adverse reactions and accidents shall be carefully observed and appropriate emergency action shall be taken, recorded and kept on file for review by the licensing agency;
 - f) sanitary techniques shall be practiced at all times;
 - g) individual sanitary sheetings covering the massage table shall be changed for each person;

- h) temperatures of water levels for various types of procedures shall be maintained at comfortable levels in accordance with acceptable practices as follows:
 - i. not to exceed 105°F for water baths of any type;
 - ii. not to exceed 165°F for dry heat cabinet or room bath temperatures; and
 - iii. not to exceed 110°F for steam cabinet or room bath temperatures; and
- i) any other procedure or practice shall conform with acceptable standards.

Section 7.0 ***Denial, Suspension or Revocation of License***

- 7.1 The Director may deny issuance of a license or renewal of license to any individual, or pending an investigation and hearing, to suspend for a period not exceeding thirty (30) days any license issued herein, and/or after due notice and hearing to revoke the license of any massage therapist who:
- a) is convicted of any offense which is a felony under the laws of Rhode Island, the record of conviction being conclusive evidence thereof;
 - b) supplies false information to the licensing agency on the application for licensure or application for licensure renewal;
 - c) fails to comply with the statutory and regulatory provisions herein.
- 7.2 An applicant, whose criminal records check reveals a conviction for any sexual offense, including, but not limited to, those offenses defined in Chapters 11-34 and 11-37 of the Rhode Island General Laws, as amended, shall be denied a license under the Act and the rules and regulations herein.
- 7.3 Whenever the Director shall have reason to believe that any person licensed under the Act to practice massage therapy has been convicted of any sexual offense, or that any person is practicing massage in violation of the Act or regulations promulgated herein, the Director may, pending an investigation and hearing, suspend for a period not exceeding thirty (30) days any license issued under authority of the Act and may, after due notice and hearing, revoke the license if he or she finds that the person practicing massage is in violation of these rules and regulations or any provision of the Act. The holder of a license shall upon its revocation promptly surrender it to the Director.

Section 8.0 ***Rules Governing Practices and Procedures***

- 8.1 All hearings and reviews required under the provisions of Chapter 23-20.8 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 9.0 ***Severability***

- 9.1 If any provision of these rules and regulations or the application thereof to any individual, facility 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 regulations are declared to be severable.

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Tuesday, 31 July 2012