



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 OF
NURSING HOME ADMINISTRATORS
(R5-45-NHA)



STATE OF RHODE ISLAND PROVIDENCE PLANTATIONS

Department of Health

April 1971

As Amended:

April 1981

January 1986

April 1988

February 1994

July 1995

December 1999

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)

February 2004

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 amended *Rules and Regulations for Licensing of Nursing Home Administrators* (R5-45-NHA) are promulgated pursuant to the authority set forth in section 5-45-13 of the General Laws of Rhode Island, as amended, and are established for the purpose of establishing prevailing requirements for the licensing of nursing home administrators.

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, duplication, or alternative approach was identified.

These rules and regulations shall supersede all previous *Rules and Regulations for Licensing of Nursing Home Administrators* promulgated by the Department of Health, and filed with the 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"** refers to Chapter 5-45 of the General Laws of Rhode Island, as amended, entitled "Nursing Home Administrators."
- 1.2 **"Board"** refers to the Board of Examiners for Nursing Home Administrators established pursuant to the provisions of section 5-45-1 of the Act.
- 1.3 **"Contact hours"** means hours acquired through attendance or participation at programs that provide for direct interaction between faculty and participants and may include lectures, symposia, live teleconferences or workshops.
- 1.4 **"Director"** means the Director of the Rhode Island Department of Health.
- 1.5 **"Department"** means the Rhode Island Department of Health.
- 1.6 **"Non-contact hours"** means internet courses, correspondence courses, tapes, or other continuing education programs that do not provide for direct interaction between faculty and the participant.
- 1.7 **"Nursing home"** means any facility providing nursing care to any in-patient thereof which to operate is required to be licensed under any law or regulation of the state and which is further defined as a skilled nursing home by the licensing authority of the state pursuant to section 5-45-4(5) of the Act.
- 1.8 **"Nursing home administrator"** means the individual responsible for planning, organizing, directing and controlling the operation of the nursing home, whether or not such functions are shared by one or more other persons, pursuant to sections 5-45-4(6) of the Act.
- 1.9 **"Regionally accredited"** means the official guarantee that a college or university or other educational institution is in conformity with the standards of education prescribed by a regional accrediting commission recognized by the U.S. Commissioner of Education.

PART II *Licensing Requirements for Nursing Home Administrators*

Section 2.0 *License Requirement*

- 2.1 Pursuant to section 5-45-5 of the Act, no nursing home in this state shall operate except under the supervision of a nursing home administrator, and no person shall be a nursing home administrator unless he or she is the holder of a sufficient nursing home administrator's license in accordance with the statutory provisions of the Act and the regulations herein.

Section 3.0 *Qualifications for Licensure*

- 3.1 An applicant seeking licensure as a nursing home administrator in this state must:
- a) be no less than eighteen (18) years of age and of good moral character;
 - b) have satisfactorily completed in a nationally or regionally accredited college or university of higher learning at least a bachelor's degree in the field of health care administration or a bachelor's degree and satisfactory evidence of completion of a minimum of fifteen (15) credit hours in a course of instruction, in a nationally or regionally accredited college or university of higher learning, to include each of the five (5) content areas as set forth below:
 1. resident care management in nursing homes
 2. personnel management
 3. financial management
 4. environmental management of nursing homes
 5. governance and management of nursing homes and
 - c) have satisfactorily completed a field experience of at least three hundred fifty (350) hours, within a twelve (12) month period in an Administrator-in-Training capacity in a licensed nursing facility, which shall include training in the following areas:

Administration, Human Resources, Nursing Department, Rehabilitation Department, Medical/Patient Records, Activities Department, Social Services/Admissions, Business Office, Dietary Department, Housekeeping/Laundry, Environment/Maintenance.

At the conclusion of the field experience, the administrator of the licensed nursing facility where the field experience was performed must attest that the training included each area;
 - d) have successfully completed the licensing examination as determined by the Board and the Director in accordance with the provisions of section 5.0 herein.

Section 4.0 *Application for Licensure*

- 4.1 Application for licensure to practice in this state as a nursing home administrator shall be made on forms provided by the Department which shall be completed and submitted thirty (30) days prior to the scheduled date of the Board meeting. Such application shall be accompanied by the following documents and any fees as may be required in the *Rules and Regulations Pertaining*

to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health:

- a) for U.S. born applicants, a copy of birth certificate notarized that it is a true, accurate copy of the original;
for foreign born applicants, proof of lawful entry into the country and eligibility for employment in the United States.
- b) supporting official transcripts of education and training credentials in accordance with section 3.0 herein; such documentation must be sent directly from the school to the Department and must bear the signature of the registrar and the imprint of the school seal;
- c) one (1) unmounted recent photographs of the applicant (head and shoulder view) approximately 2 x 3 inches in size signed and dated by the applicant on the back of the photograph;
- d) for applicants licensed in another state, the results of the nursing home administrator examination must be sent directly from the state of original licensure or the examination service to the Department;
- e) such other information as the Director may deem necessary.

Section 5.0 *Licensing of Nursing Home Administrators*

By Examination

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

By Endorsement

- 5.2 A license may be issued to a nursing home administrator without examination to an applicant who holds a current license in good standing as a nursing home administrator in another jurisdiction, provided:

- 5.2.1 the Department finds that the standards for licensure in such other jurisdiction are substantially equivalent to those prevailing in this state at the time of application;
- 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; and the applicant provides written documentation from the nursing home licensing authority in each jurisdiction where the applicant has been licensed attesting to the absence of findings of substandard care, fines, or admission restrictions in an administered licensed long-term care facility which he/she administered within the most recent three (3) years prior to application. (If such findings exist, the applicant may be allowed the opportunity to appear before the Board to offer explanation); **and**
- 5.2.3 the applicant supplies evidence to the Board of completion of forty (40) hours of continuing education in the most recent two (2) years prior to application; **and**
- 5.2.4 the applicant submits thirty (30) days prior to the scheduled meeting of the Board, a completed licensure application in accordance with the provisions of section 4.0 herein; **and**
- 5.2.5
 - a) the applicant meets the qualifications required of nursing home administrators in this state as set forth in section 3.0 herein; **or**
 - b) the applicant is currently certified by and in good standing with the American College of Health Care Administrators (ACHCA), **or**
 - c) the applicant meets all of the following requirements:
 - i) has earned a bachelor's degree; **and**
 - ii) has no less than three (3) years experience (in the most recent five [5] years prior to application) as a licensed nursing home administrator of a licensed long-term care facility; **and**
 - iii) successful completion of the national examination in accordance with section 5.1.1 herein.

Section 6.0 *Issuance and Renewal of License and Fee*

- 6.1 Upon the recommendation of the Board, the Department shall issue to applicants who have satisfactorily met the licensure requirements herein, a license to a nursing home administrator to function as such in this state. Said license unless sooner suspended or revoked shall expire on June 30th of the next regular expiration date following the date of issuance of the original license and every two years on June 30 of the next even numbered year thereafter.
- 6.2 Every person so licensed who wishes to renew his or her license shall file with the Department by June 1st, a renewal application duly executed together with a two (2) year renewal fee of ~~two hundred (\$200.00) dollars 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.

- 6.2.1 In June of every even numbered year, application for renewal of licensure shall be accompanied by or supported by evidence of the licensee's having completed a minimum of forty (40) hours of continuing education as provided in section 7.0 herein. Said requirement shall be pro-rated as necessary by the Department to reflect periods of less than two years of licensure prior to renewal.
- 6.3 Any person who allows his or her license to lapse by failing to renew it on or before the first day of July every two years as provided above, may be reinstated by the Department upon submission of an application and on payment of the current renewal fee 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, and completion of the continuing education requirements in accordance with section 6.2.1 herein within the immediate two (2) years prior to the applicant's request for licensure renewal, unless license has been suspended or revoked.
- 6.3.1 Any person using the title of "nursing home administrator" or functioning as a nursing home administrator during the time that his or her license has lapsed shall be subject to the penalties for violation of the statutory and regulatory provisions herein.

Section 7.0 *Mandatory Continuing Education*

- 7.1 Programs for continuing education which are acceptable for continuing education credits set forth in section 6.2.1 and in accordance with section 3.1(b) for nursing facility administrators shall be presented by:
- a. The RI Health Care Association
 - b. The RI Association of Facilities for the Aging
 - c. The American College of Health Care Administrators
 - d. The Alliance for Better Long Term Care
 - e. Nationally recognized associations of the aforementioned groups
 - f. Any duly accredited college or university
 - g. Programs approved by the National Continuing Education Review Service (NCERS) of the National Association of Boards of Examiners of Long Term Care Administrators.
- 7.2 Thirty (30) hours of the required forty (40) hours of continuing education in a two-year period shall be contact hours, as defined herein. The remaining ten (10) hours of continuing education may be non-contact hours.
- 7.3 It shall be the sole responsibility of the individual nursing home administrator to obtain documentation from the recognized sponsoring or co-sponsoring organizations, agencies or other, of his or her participation in the learning experience and the number of dated credits earned. Furthermore, it shall be the sole responsibility of the individual to safeguard the documents for review by the Board, if required. These documents shall be retained by each licensee for no less than four (4) years and are subject to random audit by the Department.

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

Section 8.0 *Grounds For Denial, Revocation or Suspension of License*

- 8.1 Pursuant to the statutory provisions of section 5-45-12, the Department may deny issuance of a license or suspend or revoke any license issued under the provisions of the Act and the regulations herein, or may reprimand, censure or otherwise discipline, 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 patients of the home in which he or she is the administrator;
 - c) Has engaged in fraud or deceit in the practice of nursing home 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; and
 - f) Any departure from or failure to conform to the minimal standards of acceptable and prevailing practice in nursing home administration. Actual injury to a patient/client/resident need not be established.
- 8.2 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 license or imposing a reprimand or censure on such other disciplinary action. Furthermore, pursuant to section 5-45-11 of the Act, any violations of the provisions of that section of the Act shall be subject to the penalties of that section.

Section 10.0 *Rules Governing Practices and Procedures*

10.1 All hearings and reviews required under the provisions of Chapter 5-45 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.