



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 LIMITED MEDICAL REGISTRATION

[R5-37-REG]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

December 1982

AS AMENDED:

January 1986

October 2007

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

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

October 2004

**August 2012
(Proposed)**

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

COMPILER'S NOTES:

Proposed Additions: Underlined

Proposed Deletions: ~~Strikeouts~~

INTRODUCTION

These amended *Rules and Regulations For Limited Medical Registration [R-5-37REG]* are promulgated pursuant to the authority conferred under section 23-17-10 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting prevailing standards for limited medical registration.

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

Upon promulgation, these amended regulations shall supersede all previous *Rules and Regulations For Limited Medical Registration* promulgated by the Department of Health and filed with the Secretary of State.

PART I *Definitions*

Section 1.0 *Definitions*

Wherever used in these rules and regulations the following terms shall be construed to mean:

- 1.1 "**Act**" refers to Chapter 5-37 of the General Laws of Rhode Island, as amended, entitled, "Board of Medical Licensure and Discipline."
- 1.2 "**Attending physician**" means a physician who has an active, full medical license.
- 1.3 "**Board**" means the Board of Medical Licensure and Discipline established in accordance with the provisions of Chapter 5-37 of the General Laws of Rhode Island, as amended.
- 1.4 "**Department**" means the Rhode Island Department of Health.
- 1.5 "**Director**" means the Director of the Rhode Island Department of Health.
- 1.6 "**Intern, resident, or fellow**", as used herein, means a physician in training in an accredited postgraduate training program.
- 1.7 "**Medical officer**", as used herein, means a physician in training with a limited moonlighting license in a Rhode Island-based accredited postgraduate training program who has completed at least one (1) year, but not more than three (3) years, of postgraduate training.
- 1.8 "**Moonlighting**", as used herein, means clinical practice by a postgraduate trainee outside the required activities of the parent postgraduate training program.

PART II *Limited Medical Registration Requirements for Interns, Residents, Fellows or Medical Officers*

Section 2.0 *General Requirements*

2.1 Except for physicians licensed pursuant to Chapter 5-37 of the General Laws of Rhode Island, as amended, no person shall perform the duties of an intern, resident, fellow or medical officer in this state without holding a limited medical registration certificate pursuant to section 5-37-16 of the Act.

2.1.1 Limited medical registration shall only be granted to individuals appointed as intern, resident, fellow or medical officer in a hospital licensed in this state, or other institution or clinic pursuant to section 5-37-16 of the Act for the purpose of obtaining training in a medical program accredited by the Accreditation Council for Graduate Medical Education, (ACGME), or other accrediting body approved by the Board, or to a fellow for the purpose of teaching, research and/or training in conjunction with a medical education program in a medical school accredited by the Liaison Committee for Medical Education (LCME).

2.1.2 Medical officers may be granted limited medical registration for moonlighting for up to two [2] years, provided the following criteria are met:

- a) an application, on behalf of the applicant, signed by the administrator/chief executive officer of the hospital clinical facility, or medical practice in Rhode Island that will be employing the medical officer, shall be submitted to the Board accompanied by the following:
 - i. a signed statement by the training program director attesting to the approval of the applicant's credentials and application, good standing as a post-graduate trainee, program approval of anticipated clinical activities as a moonlighting officer, and the program's ongoing monitoring and enforcement of ACGME duty hour limitations to include applicant's clinical activities as a medical officer.
 - ii. a signed statement by the chief of the medical staff or medical director of the hospital, clinical facility or medical practice in Rhode Island that will be employing the medical officer attesting to the approval of the applicant's credentials and anticipated scope of medical practice in accordance with the credentialing process of the medical staff by-laws or policy and procedures manual;
 - iii. a signed statement by the applicant stating the reason(s) said applicant has failed to obtain a medical license in Rhode Island as of the date of application, (e.g. awaiting first sitting for the Flex Exam, needs required clinical experience for Rhode Island licensure);

- iv. a signed statement that the applicant has not previously held a limited medical registration for more than three (3) years;
 - v. information satisfactory to the Board submitted by the hospital, clinical facility, or medical practice regarding the duties and responsibilities of the applicant and the licensed attending physician to be responsible for the supervision of the applicant and the applicant's clinical practice; and
- b) Limited medical registration, as defined in this section, shall entitle the holder to practice medicine outside the medical officer's postgraduate training program, but consistent with his/her training, in the hospital, clinical facility, medical practice or other institution designated on the certificate of the limited registration, or outside such hospital or other institution under the supervision of one of its medical staff who is a duly licensed physician [i.e., full licensure]. The registrant shall comply with relevant training program requirements regarding limitations to duty hours and moonlighting, and practice consistent with registrant's clinical experience and expertise.
 - c) limited medical registration for moonlighting issued to a medical officer under the provisions of this section shall be valid for a period of not more than two (2) years from the date of issuance, only at the clinical sites specified in the application.

2.2 A limited medical registration certificate (for postgraduate training) shall entitle the holder thereof to practice medicine in the hospital or other institution designated on the certificate of limited registration, or outside such hospital or other institution for the treatment under the supervision of one of its medical staff who is a duly licensed physician [i.e. full licensure], of persons accepted by it as patients, or in any hospital, institution, clinic or program affiliated for training purposes with the hospital, institution or clinic designated on such certificate, which affiliation is approved by the Department. In all cases the practice of medicine under a limited medical registration shall be in accordance with policies and procedures established by the hospital, institution or other clinic designated on the certificate.

2.2.1 It shall be the responsibility of each hospital, clinic or other institution to submit, on or before 1 April of each year to the Department for its approval, a list of affiliated hospitals, institutions, clinics or programs providing training programs for interns, residents, fellow or medical officers.

2.2.2 Any hospital, clinic or institution providing training programs for interns, residents, fellows or medical officers, that are subject to statutory licensure in this state, shall hold a current license.

2.3 Once a full license to practice medicine in the state of Rhode Island has been granted, all limited medical registration privileges shall cease.

- 2.4 Physicians who are fully licensed in an alternate jurisdiction who are eligible for limited medical registration in Rhode Island shall be granted such registration for one (1) year only.
- 2.5 A physician in training greater than five (5) years shall obtain a full, unrestricted license to practice medicine in Rhode Island, unless the physician remains in an accredited training program and has successfully passed all three (3) parts of the United States Medical Licensing Examination (USMLE).

PART II ***Limited Medical Registration Requirements for Interns, Residents, Fellows or Medical Officers***

Section 3.0 ***Application For Registration***

- 3.1 An applicant for limited medical registration shall submit through the hospital, institution, clinical facility, or medical practice to the Department satisfactory proof of:
- a) being eighteen (18) years of age or older;
 - b) good moral character;
 - c) having successfully graduated and completed no less than two (2) years of study in a legally chartered medical school having power to grant degrees in medicine;
 - d) appointment as an intern, resident, or fellow in an accredited training program pursuant to section 2.1.1 of the regulations herein; and
 - e) such other information as may be deemed necessary by the Department.
- 3.2 Furthermore, each applicant from an accredited training program or its equivalent shall have the application for limited medical registration signed by:
- a) the administrator/chief executive officer of the hospital, clinic, or other institution that has granted the appointment as an intern, resident, fellow or medical officer; and
 - b) the program director attesting to the provisions of section 3.1 (c) above.
- 3.3 Applicants from foreign medical schools shall present evidence of valid certification by the Educational Commission for Foreign Medical Graduates (ECFMG) including the provisions of section 3.2 (a) above.
- a) This requirement may be waived at the discretion of the Board for candidates approved by the Board who are participating in a short-term [less than 6 month duration] postgraduate experience as part of a formal program administered by the director of an ACGME accredited residency or fellowship.
- 3.4 Registration fee of ~~forty dollars (\$40.00) payable to the General Treasurer of the 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 limited medical registration.

Section 4.0 ***Issuance of Limited Medical Registration Certificate***

- 4.1 A limited medical registration certificate, except a limited medical registration certificate for medical officers issued pursuant to section 2.1.2 herein, shall be valid for a period of not more than one (1) year from the date of issuance and may be renewed annually for not more than four (4) consecutive years by the Department, except as provided in section 2.5 herein.

PART III *Limited Medical Registration - Academic Faculty*

Section 5.0 *General Requirements*

5.1 Pursuant to section 5-37-16.1 of the Act, notwithstanding any other provisions of the Act, a physician of noteworthy and recognized professional attainment who is clearly an outstanding physician and who has been offered by the dean of an accredited medical school in this state a full-time academic appointment at senior rank, may, at the Board's sole discretion, be granted limited registration while serving on the academic staff of the medical school.

5.1.1 Such limited registration shall enable said physician(s) to engage in the practice of medicine to the extent that such practice is incidental to a necessary part of his or her academic appointment and then only in the hospital or hospitals and out-patient clinics connected with the medical school through formal academic affiliation. Except to the extent authorized by the Act and the rules and regulations herein, the academic physician with limited registration shall not engage in the practice of medicine or receive compensation therefor, unless he or she is issued a license to practice medicine in accordance with the provisions of section 5-37-2 of the Act.

PART III *Limited Medical Registration - Academic Faculty*

Section 6.0 *Application*

- 6.1 Application for limited registration for "academic faculty" shall be made on forms provided by the Department which shall be completed, notarized and submitted to the Board at least thirty (30) days prior to the scheduled date of Board meeting.
- 6.2 Such application shall be accompanied by the following documents and fee (non-refundable and non-returnable):
- a) i) ***For U.S. citizens:*** a certified copy of birth certificate;
 - ii) ***For foreign medical physicians:*** if a certified copy of birth certificate cannot be obtained, immigration papers or resident alien card or such other birth verifying papers acceptable to the Board;
 - b) one (1) recent photograph of the applicant, head and shoulder front view approximately 2 x 3 inches in size;
 - c) a statement from the board of examiners in medicine in each state in which the applicant holds or has held a license confirming the applicant to be or have been in good standing. Such statement shall be submitted to the Board in this state;
 - d) a certified copy of medical diploma;
 - e) a complete curriculum vitae;
 - f) a written statement from the dean of the medical school attesting that an offer has been made to the individual for a full-time senior level academic appointment, including the recommendation that the applicant is a person of professional rank (i.e., associate or full professor) whose knowledge and special training will benefit the medical school; and
 - g) application fee of ~~four hundred sixty (\$460.00) 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 All documents not written in the English language shall be accompanied by certified translations.

Section 7.0 *Issuance of Limited Registration Certificate*

- 7.1 The limited registration shall be valid for a period of not more than one (1) year expiring on the 30th day of June following its initial effective date and may be renewed for not more than five (5) consecutive years by the Board, provided however, such registration shall automatically expire when the holder's relationship with the medical school is terminated or substantially changes. The holder shall reapply for limited registration in accordance with the requirements of section 6.0 herein if the relationship with the medical school substantially changes.

After the fifth consecutive renewal, a physician may reapply for limited registration in accordance with the provisions of section 6.0 herein.

- 7.2 The initial application fee for annual limited registration renewal shall be ~~one hundred thirty dollars (\$130.00) 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.*

PART IV *Violations/Practices and Procedures/Severability*

Section 8.0 *Violations and Practices and Procedures*

- 8.1 Pursuant to section 5-37-16 and 5-37-16.1 of the Act, the Department is authorized to revoke the limited registration certificate of any intern, resident, fellow or medical officer, or academic faculty physician, who violates any of the provisions of section 5-37-16 and 5-37-16.1 of the Act and/or the rules and regulations herein.
- 8.2 All hearings and reviews required under the provisions of the Act and the rules and regulations herein, shall be held in accordance with the *Rules and Regulations of the Rhode Island Department of Health Governing the Practices and Procedures Before the 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 rules and regulations herein or the application to any facility or circumstances 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.

*DocsLimited-proposed June 2012
Monday, 30 July 2012*