Rhode Island Department of Health

PUBLIC NOTICE

The Director of the Rhode Island Department of Health has determined to amend the ***Rules and Regulations for the Licensure and Discipline of Physicians* [*R5-37-MD/DO*]** to allow the Director, in consultation the appropriate medical or osteopathic society, to develop a list of topics, as current public health needs shall determine, for two (2) hours of required continuing medical education (CME) at the start of each renewal cycle. These amendments are proposed pursuant to the authority contained in Chapter 5-37 of the Rhode Island General Laws, as amended.

Notice is hereby given in accordance with the provisions of §42-35-3(1)(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* and the regulations 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 14 May 2012 deadline (as below).

Such input or requests for public hearing must be received in writing **no later than Monday, 14 May 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 the 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 Department's website**:** http://www.health.ri.gov/regulations/index.php**,** or Secretary of State's website: http://www.sos.ri.gov/rules/, by e-mail to Bill.Dundulis@health.ri.gov or by calling 401-222-7767

Signed this 10th day of April 2012

Original signed by Michael Fine, MD

Michael Fine, M.D., Director of Health

PROPOSED – REVISED 14 MARCH 2012

RULES AND REGULATIONS
FOR THE LICENSURE AND DISCIPLINE OF PHYSICIANS

[R5-37-MD/DO]

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

1967

AS AMENDED:

December 1967
February 1975
February 1976
March 1977
December 1978
May 1982
July 1986
October 1988 (E)
September 1990(E)
January 1991 (E)
August 1991
September 1991
November 1992
June 1997
September 1998
January 2000
January 2002 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)
December 2002
April 2004
October 2004
January 2007 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)
October 2007
August 2008
August 2009
January 2012 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)
January 2012
April 2012 (Proposed)

COMPILER'S NOTES:
Proposed Additions: Double-Underlined
Proposed Deletions: ~~Strikeouts~~

PROPOSED – REVISED 14 MARCH 2012

INTRODUCTION

These amended *Rules and Regulations for the Licensure and Discipline of Physicians (R5-37-MD/DO)* are promulgated pursuant to the authority conferred under Chapter 5-37 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting prevailing standards governing the licensure and discipline of physicians in Rhode Island.

Pursuant to the provisions of §§42-35-3(a)(3) and (a)(4) of the General Laws of Rhode Island, as amended, the following were given consideration was given in arriving at the amended regulations as to:

(1) Alternative approaches to the regulations;

(2) Duplication or overlap with other state regulations; and

(3) Significant economic impact on small business.

Based on the available information, no known alternative approach, duplication or overlap was identified.

Upon promulgation of these amendments, these amended regulations shall supersede all previous *Rules and Regulations for the Licensure and Discipline of Physicians* promulgated by the Department of Health and filed with the Secretary of State.

PROPOSED – REVISED 14 MARCH 2012

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PROPOSED – REVISED 14 MARCH 2012

PART I *LICENSURE REQUIREMENTS FOR PHYSICIANS*

Section 1.0 *Definitions*

Wherever used in these rules and regulations, the terms listed below shall be construed in the following manner:

1.1 ***"Acupuncture"*** means the insertion of needles into the human body by piercing the skin of the body, for the purpose of controlling and regulating the flow and balance of energy in the body. For the purposes of the rules and regulations herein, ***"medical acupuncture***" means acupuncture as practiced by physicians licensed under the provisions of Chapter 5-37 of the Rhode Island General Laws, as amended.

1.2 ***"Act"*** refers to Chapter 5-37 of the General Laws of Rhode Island, as amended, entitled, "Board of Medical Licensure and Discipline."

1.3 ***"Board"*** refers to the Rhode Island Board of Medical Licensure and Discipline or any committee or subcommittee thereof established under the provisions of section 5-37-1.1 of the Act.

1.4 ***"Chief Administrative Officer"*** means the administrator of the Rhode Island Board of Medical Licensure and Discipline.

1.5 "***Collaborative pharmacy practice"*** is that practice of pharmacy whereby a pharmacist with advanced training and experience relevant to the scope of collaborative practice agrees to work in collaboration with one or more physicians for the purpose of drug therapy management of patients, such management to be pursuant to a protocol or protocols authorized by the physician(s) and subject to conditions and/or limitations as set forth by the Department. A health care professional who has prescribing privileges and is employed by a collaborating physician may be in such an agreement.

1.6 ***"Director"*** refers to the Director, Rhode Island Department of Health.

1.7 ***"Doctor of Acupuncture"*** means a person who has been licensed under the provisions of Chapter 5-37.2 of the Rhode Island General Laws, as amended, to practice the art of healing known as acupuncture.

1.8 ***"Drug therapy management"*** means the review, in accordance with a collaborative practice agreement, of drug therapy regimen(s) of patients by a pharmacist for the purpose of rendering advice to one (1) or more physicians that are party to the agreement, or their physician designees, regarding adjustment of the regimen. Decisions involving drug therapy management shall be made in the best interests of the patient. In accordance with a collaborative practice agreement, drug therapy management may include:

(1) Modifying and managing drug therapy;

(2) Collecting and reviewing patient histories;

(3) Obtaining and checking vital signs, including pulse, temperature, blood pressure, and

respiration; and

(4) Under the supervision of, or in direct consultation with a physician, ordering and evaluating the results of laboratory tests directly related to drug therapy when performed in accordance with approved protocols applicable to the practice setting and providing such evaluation does not include any diagnostic component.

1.9 ***"Foreign Medical Graduate"*** means a physician (individual) whose basic medical degree or qualification was conferred by an allopathic medical school located outside the United States, Canada and Puerto Rico.

1.10 ***"License"*** is synonymous with registration certificate.

1.11 ***"Person"*** means any individual, partnership, firm corporation, (including, but not limited to, associations, joint stock companies, limited liability companies, and insurance companies), trust or estate, state or political subdivision or instrumentality of a state.

1.12 ***"Physician"*** means any person licensed to practice allopathic or osteopathic medicine pursuant to the provisions of Chapter 5-37 of the General Laws of Rhode Island, as amended.

1.13 "***Postgraduate training***", as used herein, means satisfactory training after earning the medical degree at an accredited program, or its equivalent as determined by the Board, including internship, residency and fellowship. Such training shall include one (1) year of internship and one (1) or two (2) years of progressive residency or comparable fellowship.

1.14 ***"Practice of Medicine"***, pursuant to section 5-37-1(1) of the Act, shall include the practice of allopathic and osteopathic medicine. Any person shall be regarded as practicing medicine within the meaning of the act who holds himself or herself out as being able to diagnose, treat, operate, or prescribe for any person ill or alleged to be ill with disease, pain, injury, deformity or abnormal physical or mental condition, or who shall either profess to heal, offer or undertake, by any means or method, to diagnose, treat, operate, or prescribe for any person for disease, pain, injury, deformity or physical or mental condition. In addition, one who attaches the title M.D., physician, surgeon, D.O., osteopathic physician and surgeon, or any other similar word or words or abbreviation to his or her name indicating that he or she is engaged in the treatment or diagnosis of the diseases, injuries or conditions of persons shall be held to be engaged in the practice of medicine.

Section 2.0 ***License Requirements***

2.1 No person, unless licensed to practice medicine in this state, shall practice allopathic or osteopathic medicine or surgery or attempt to practice allopathic or osteopathic medicine or surgery, or any of the branches of allopathic or osteopathic medicine or surgery after having received therefore or with the intent of receiving therefore, either directly or indirectly, any bonus, gift or compensation or who shall open an office with intent to practice allopathic or osteopathic medicine or shall hold himself or herself out to the public as a practitioner of allopathic or osteopathic medicine, whether by appending to his or her name the title of

doctor or any abbreviation thereof, or M.D., or D.O. or any other title or designation implying a practitioner of allopathic or osteopathic medicine.

Practice of Medical Acupuncture

2.2 Any physician licensed in Rhode Island under the provisions of Chapter 5-37 who seeks to practice medical acupuncture as a therapy shall comply with the following:

2.2.1 Meet the requirements for licensure as a doctor of acupuncture set forth in the *Rules and Regulations for Licensing Doctors of Acupuncture and Acupuncture Assistants* promulgated by the Department of Health; **or**

2.2.2 Successfully complete a course offered to physicians that meets the requirements set forth in these regulations and includes no less than the following:

a) a minimum of three hundred (300) hours of formal instruction;

b) a supervised clinical practicum incorporated into the formal instruction required in subsection 2.2.2(a) (above).

Section 3.0 ***Qualifications For Licensure***

3.1 ***Allopathic Physicians*:**

3.1.1 Graduates of Schools Located in the U.S.A. and Puerto Rico:
An applicant seeking licensure to practice medicine in this state must:

a) be of good moral character;

b) have graduated from a medical school accredited by the Liaison Committee for Medical Education (LCME);

c) have satisfactorily completed two (2) years of progressive post graduate training, internship and residency, in a program accredited by the Accreditation Council for Graduate Medical Education;

d) have satisfactorily passed an examination approved by the Board; and

e) meet such other requirements as set forth by regulation or as may be established by the Board.

3.1.2 Graduates of Schools Located in Canada:
An applicant seeking licensure to practice medicine in this state must:

a) be of good moral character;

b) have graduated from a medical school accredited by the Liaison Committee for Medical Education (LCME);

c) have satisfactorily completed two (2) years of progressive post graduate training in a program accredited by the Accreditation Committee of the Federation of the Medical Licensing Authority of Canada or the Royal College of Physicians and Surgeons of Canada;

d) have satisfactorily passed an examination approved by the Board; and

e) meet such other requirements as set forth by regulation or as may be established by the Board.

3.1.3 Foreign Medical Graduates

An applicant seeking licensure to practice medicine in this state who is a Foreign Medical Graduate must:

a) be of good moral character;

b) have graduated from a medical school located outside the United States which is recognized by the World Health Organization and the Board;

c) have received certification by the Education Commission for Foreign Medical Graduates (ECFMG);

d) applicants must have satisfactorily completed three (3) years of progressive postgraduate training, internship and residency or a comparable fellowship in a training program accredited by the Accreditation Council for Graduate Medical Education (ACGME). The Board may grant up to twelve (12) months of credit at the internship level to an applicant with a minimum of three (3) years of progressive international postgraduate training when advanced standing is also granted by the American Board of Medical Specialties. All or some of this postgraduate training requirement may be waived, at the discretion of the Board, for international graduates with advanced international postgraduate training in the United Kingdom, Australia, or New Zealand; full and unrestricted medical licensure in another state/jurisdiction; and five (5) years of clinical practice experience in good standing in the alternate jurisdiction.

e) have satisfactorily passed an examination approved by the Board; and

f) meet such other requirements as set forth by regulation or as may be established by the Board.

3.1.4 Foreign Medical Graduates/United States Citizens (Fifth [5th] Pathway)

An applicant seeking licensure to practice medicine in this state and who is a Foreign Medical Graduate and a United States citizen at the time of attendance at said foreign school and who has completed all of the formal requirements of said medical school except internship and/or social services must:

a) be of good moral character;

b) have successfully completed a course of study from a medical school located outside the United States which is recognized by the World Health Organization and the Board;

c) have satisfactorily passed the Educational Commission for Foreign Medical Graduates Examinations;

d) have attained a score satisfactory to a medical school approved by the Liaison Committee on Medical Education on a qualifying examination acceptable to the State Board for Medicine;

e) applicants shall have satisfactorily completed three (3) years of progressive postgraduate training, internship and residency or fellowship in a training program accredited by the Accreditation Council for Graduate Medical Education.

f) have satisfactorily passed an examination approved by the Board; and

g) meet such other requirements as set forth by regulation or as may be established by the Board.

3.2 ***Osteopathic Physicians*:**

3.2.1 Graduates of Schools of Osteopathic Medicine:
An applicant seeking licensure to practice Osteopathic Medicine in this state must:

a) be of good moral character;

b) have graduated from an osteopathic medical school located in the United States that is accredited by the American Osteopathic Association;

c) have satisfactorily completed two (2) years of progressive post graduate training, internship and residency in a program approved by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education:

d) have satisfactorily passed an examination approved by the Board; and

e) meet such other requirements as set forth by regulations or as may be established by the Board.

Licensure By Endorsement

3.3 The Board may grant expedited full and unrestricted licensure to applicants with a verified full and unrestricted licensure in another state with administrative approval from the Chief Administrative Officer provided that the candidate shall: (1) have no formal disciplinary actions or active or pending investigations; past, pending, public or confidential restrictions or sanctions, by the board of medicine, licensing authority, medical society, professional society, hospital, medical school or institution staff sanctions in any state, country or jurisdiction. A disciplinary action includes, but is not limited to, the refusal to issue or renew a license to practice medicine by any aforementioned entity. (2) hold unrestricted licenses in every jurisdiction that the candidate holds a license, (3) meet minimum requirements for a license in the state of Rhode Island, (4) have submitted a completed application, in the English language or accompanied by a certified translation thereof into English for reciprocal licensure. Such licenses shall be considered provisional until ratified at a meeting of the full Board. Willful violation of the provisions of this section by a licensing candidate shall be grounds for immediate license suspension.

Section 4.0 ***Application For License & Fees***

4.1 Application for licensure shall be made on forms provided by the Board which shall be completed, including the physician's signature, notarized and a recent identification photograph

of the applicant, head and shoulder front view, approximately 2 x 3 inches in size submitted to the Board.

4.2 Such application shall be accompanied by the following documents and fee (non-refundable and non-returnable):

a) a total of four (4) references attesting to your character and professional abilities on a form supplied by the Board mailed directly to the Board from the following individuals:

i) the chief of staff or department chairperson in the hospital where applicant currently holds staff privileges;

ii) the hospital administrator in the hospital where applicant currently holds staff privileges;

iii) applicants who graduate from postgraduate training within five (5) years of the date of application for licensure shall provide a reference letter from the residency director;

iv) up to two (2) additional practicing physicians.

If the applicant does not currently hold staff privileges, references must be obtained, on the form described above, from the following individuals:

v) the chairman of the department where the applicant has had a majority of training;

vi) the director of the residency or fellowship training programs;

vii) two additional practicing physicians.

b) the applicant must submit a self-query of the National Practitioner Data Bank.

c) each license application, except from an applicant who qualifies for a license by endorsement pursuant to section 3.3 above, must also include a completed Federation Credentials Verification Form (FCVS) from the Federation of State Medical Boards of the United States, Inc.

d) a statement from the Board of Examiners in Allopathic or Osteopathic Medicine in each state in which the applicant has held or holds licensure to be submitted to the Board of this state attesting the licensure status of the applicant during the time period applicant held licensure in said state;

e) the application examination fee, five hundred and seventy dollars ($570.00), made payable by check to the General Treasurer, State of Rhode Island (non-refundable);

f) such other information as may be deemed necessary and appropriate by the Board.

4.3 The Board, at its discretion, reserves the right to require any or all applicants to appear before the Board for an interview.

4.4 An applicant shall not be eligible for licensure by endorsement if the Board finds that the applicant has engaged in any conduct prohibited by this regulation.

Section 5.0 ***Examination***

5.1 ***By Examination for Allopathic & Osteopathic Physicians*:**
Applicants shall be required to pass such examination as the Board deems necessary to test the applicant's knowledge and skills to practice medicine in this state pursuant to the statutory and regulatory provisions herein.

5.1.1 For written examinations, the Board requires applicants to successfully pass the following:

(1) The National Board of Allopathic or Osteopathic Medical Examination (NBME) or (NBOME); or

(2) The United States Medical Licensing Examination (USMLE);

(3) The Licentiate Medical Council of Canada (LMCC);

(4) Or any combination of examinations acceptable to the Board and as recommended by the United States Medical Licensing Examination;

(5) The passing score for each section of the above examinations must be 75 or more (The Board does not accept averaging of the separate components.)

(6) Applicants for licensure in Rhode Island must pass each section of the required examination by the third (3rd) attempt. In the event of a third failure, opportunity for re-examination(s) shall be subject to the applicant's completion of additional requirements as recommended by the Board on a case by case basis.

Section 6.0 ***Continuing Education***

6.1 Every physician licensed to practice allopathic or osteopathic medicine in Rhode Island under the provisions of the Act and the regulations herein, shall on or before the first day of June of every even-numbered year after 2004, on a biennial basis, earn a minimum of forty (40) hours of AMA PRA Category 1 Credit™/AOA Category 1a continuing medical education credits and shall document this to the Board.

6.2 The application shall include evidence satisfactory to the Board of completion of a prescribed program of continuing medical education established by the ~~Board-approved~~ appropriate medical or osteopathic society. Participation by duly appointed members of the Board in regular Board meetings and investigating committee meetings shall be considered acceptable on an hours served basis in lieu of AMA PRA Category 1 Credit™/AOA Category 1a continuing medical education hours.

6.2.1 Said continuing medical education shall include a minimum of two (2) hours from a list of topics related to ~~topics that shall be determined by the Director at the beginning of the renewal cycle which starts on 1 July of each even-numbered year. The Director shall provide a list of acceptable areas, as~~ current public health needs, which list shall be developed by the Director in consultation with and as approved by the appropriate medical or osteopathic society. The list shall be available to physicians as of 1 July of each even-numbered year. ~~shall determine, to meet this two (2) hour continuing medical education requirement.~~

6.3 The Board, may extend for only one (1) six (6) month period such educational requirements pursuant to the provisions of section 5-37-2.1 of the General Laws.

6.4 It shall be the sole responsibility of the individual physician to obtain documentation from the approved sponsoring or co-sponsoring organizations, agencies or other, of his or her participation in a learning experience and the number of dated credits earned.

6.4.1 Those documents must be safeguarded, for a period of three (3) years, by the physician for review by the Board if required. Only a summary list of those documents, not the documents themselves, shall be submitted with the application for renewal of the certification.

6.5 Licensure renewal shall be denied to any applicant who fails to provide satisfactory evidence of continuing medical education as required herein.

Section 7.0 ***Issuance and Renewal of License and Fee***

7.1 Upon completion of the aforementioned requirements and upon submission of the initial licensure fee of five hundred and seventy dollars ($570.00), the Director may issue a license to those applicants found to have satisfactorily met all the requirements herein. Said license unless sooner suspended or revoked shall expire biennially on the 1st of July of the next even-numbered year.

7.2 Every physician licensed during the current year who intends to practice allopathic or osteopathic medicine during the ensuing two years shall file with the Board, before the 1st of July of each even-numbered year, a renewal application, on such forms as the Chief Administrative Officer deems appropriate, and duly executed together with the renewal fee of six hundred fifty dollars ($650.00), made payable by check or money order to the General Treasurer, State of Rhode Island on or before the first day of July in each even-numbered year. Payment shall be postmarked on or before July 1.

7.3 Upon receipt of a renewal application and payment of fee, a license renewal, subject to the terms of the Act and the regulations herein, shall be issued, effective for two years, unless sooner suspended or revoked.

7.4 The licenses (registration certificates) of all allopathic or osteopathic physicians whose renewals, accompanied by the prescribed fee, are not filed on or before the first day of July shall be automatically lapsed. The Board may in its discretion and upon the payment by the physician of the current licensure (registration) fee, plus an additional fee of one hundred thirty dollars ($130.00), reinstate any license (certificate) lapsed under the provisions of section 5-37-10 of the Act and section 7.4 herein.

7.5 Every person to whom a license to practice medicine in this state has been granted by the duly constituted licensing authority in the state and who intends to engage in the practice of medicine during the ensuing two years, shall register his or her license by filing with the Board such application duly executed together with such registration form and fee as established by the Director.

7.6 A physician licensed in the state who shall have attained the age of not less than seventy (70) years as of July 1 of the year of licensure, who shall continue to maintain all current Continuing Medical Credits, all other requisites of licensure, and who shall have been a fully licensed physician in Rhode Island for not less that fifteen (15) years, shall, subject to all other provisions of applicable Rhode Island statute or regulation, be licensed upon payment of a biennial fee equal to ten (10) percent of the biennial fee established for the two years for physician licensure.

7.7 Each physician licensed in Rhode Island shall be required to provide pertinent information to be included in an individual physician profile that shall be compiled by the Board and made available to the public, as described in section 5-37-9.2 of the General Laws of Rhode Island, as amended. This information will be collected through a questionnaire provided by the Board and completed by each licensed physician.

7.7.1 Through this questionnaire, each Rhode Island licensed physician shall provide the following information to the Board for inclusion in the profile:

a) Name(s) of medical school(s) and date(s) of graduation;

b) Graduate medical education;

c) A description of any final disciplinary actions by licensing boards in other states within the most recent ten (10) years;

d) A description of any criminal convictions for felonies within the most recent ten (10) years. For the purpose of this subsection, a person shall be deemed to be convicted of a crime if he or she pleaded guilty or if he or she was found or adjudged guilty by a court of competent jurisdiction; or has been convicted of a felony by the entry of a plea of nolo contendere;

e) A description of revocation or restriction of hospital privileges for reasons related to competence or quality of patient care that have been taken by the hospital's governing body or any other official of the hospital after procedural due process has been afforded, or the resignation from or non-renewal of medical staff membership or the restriction of privileges at a hospital during the course of an investigation. Only cases which have occurred within the most recent ten (10) years shall be disclosed to the public; and,

f) All medical malpractice court judgements and all medical malpractice arbitration awards in which payment was awarded to a complaining party since September 1, 1988 in any state in which the physician was licensed since September 1, 1988 or during the most recent ten (10) years, and all settlements of malpractice claims in which payment was made to a complaining party since September 1, 1988 or within the most recent ten (10) years in any state in which the physician was licensed since September 1, 1988 or within the most recent ten (10) years.

7.7.2 In order to update for the profile the information initially supplied to the Board by the physician at initial application for licensure, each physician shall provide the following information through the questionnaire:

a) Specialty board certification;

b) Number of years in practice in any state;

c) Name(s) of the hospital(s) where the physician has privileges in any state;

d) The location of the physician's primary practice setting; and,

e) The identification of any language translation services that may be available at the physician's primary practice location.

7.7.3 The following information may be provided by the physician through the questionnaire distributed by the Board for inclusion in the profile:

a) Appointment(s) to medical school faculty(ies) and indication as to whether the physician has responsibility for graduate medication education within the most recent ten (10) years;

b) Information regarding publications in peer-reviewed medical literature within the most recent ten (10) years; and,

c) Information regarding professional or community service awards.

Section 8.0 ***Refusal of License***

8.1 The director at the direction of the Board, after due notice and hearing, in accordance with the procedures set forth in 5-37-5.2 to 5-37-6.2 of the General Laws, may refuse to grant the original license to any physician and/or applicant who:

A. is not of good moral character;

B. does not meet the requirements for licensure set forth in Chapter 5-37, regulations established by the Board, and/or regulations promulgated by the director who has violated any laws involving moral turpitude or affecting the ability of any physician and/or applicant to practice medicine; or

C. has been found guilty in another state of conduct which if committed in Rhode Island would constitute unprofessional conduct, as defined in Section 5-37-5.1 and regulations adopted thereunder.

D. has been denied medical licensure in another state.

Said director shall serve a copy of his or her decision or ruling upon any person whose original certificate has been refused.

Section 9.0 ***Inactive List***

9.1 A physician licensed to practice allopathic or osteopathic medicine who does not intend to engage in the practice of medicine during any year, may upon written request to the Board have his or her name transferred to an inactive list and shall not be required to register biennially or pay any fee as long as he or she remains inactive. During said period of inactive status, the physician may not practice medicine, as defined in section 1.13 of these regulations.

9.1.1 Any licensed physician whose name has been transferred to an inactive list pursuant to section 9.1 above, may apply to the Board for restoration of his or her license to active status to practice medicine. He or she must submit to the Board an application including a chronology of professional activities during his or her inactive status, a report of Continuing Medical Education for the preceding three (3) years, accompanied by the licensure fee of six hundred fifty dollars ($650.00), made payable by check to the General Treasurer, State of Rhode Island. Furthermore, at the discretion of the Board, the applicant may be required to appear before the Board for an interview.

Section 10.0 ***Unprofessional Conduct***

10.1 The Director is authorized to deny or revoke any license to practice allopathic or osteopathic medicine or otherwise discipline a licensee upon finding by the Board that the person is guilty of unprofessional conduct which shall include, but not be limited to those items, or combination thereof, listed in section 5-37-5.1 of the General Laws.

10.2 Licenses that have been revoked by the Director shall not be eligible for consideration for re-instatement for a period of five (5) years. Re-instatement of revoked licenses shall be at the discretion of the Board.

Section 11.0 ***Services***

11.1 All aspects of mammography services shall be managed in accordance with the provisions of the *Rules and Regulations Related to Quality Assurance Standards for Mammography (R23-1-MAM)* of the Rhode Island Department of Health.

Medical Records

11.2 Medical records and medical bills may be requested by the patient or an authorized representative. All medical record requests to physicians shall be made in writing or upon receipt of a properly executed Authorization for Release of Health Care Information.

Reimbursement to the physician for copying of medical records shall not exceed 25 cents per page for the first 100 pages. After 100 pages, the fee shall not exceed 10 cents per page. A maximum fee of $15.00 may be charged for retrieval regardless of the amount of time necessary to retrieve the record. A special handling fee of an additional $10.00 may be charged if the records must be delivered to the patient or authorized representative within forty-eight (48) hours of the request.

The physician may not require prior payment of charges for medical services as a condition for obtaining a copy of the medical record. The physician may not require prepayment of charges for duplicating or retrieving records as a condition prior to fulfilling the patient's request for the medical record if the request is for the purpose of continuity of care. Copying of X-rays or other documents not reproducible by photocopy shall be at the physician's actual cost plus reasonable fees for clerical service not to exceed $15.00. Charges shall not be made if the record is requested for immunization records required for school admission or

by the applicant or beneficiary or individual representing an applicant or beneficiary for the purposes of supporting a claim or appeal under the provision of the Social Security Act or any federal or state needs-based benefit program such as Medical Assistance, RIte Care, Temporary Disability Insurance and Unemployment compensation.

No fees shall be charged to an applicant for benefits in connection with a Civil Court Certification Proceeding or a claim under the Worker's Compensation Act R.I.G.L. 28-29-38 as reflected in R.I.G.L. 23-17-19.1(16).

Requested records must be provided within thirty (30) days of the receipt of the written request or signed authorization for records. Requests for medical records made by attorneys or a patient's estate on behalf of the patient shall be billed in the same restricted manner as described herein. Electronic medical record downloading and copying shall be billed in the same manner and terms as described above.

Should instances arise relating to the retrieval and copying of medical records which are not specifically covered by these regulations, a fee structure consistent with that described above shall apply.

11.3 Medical Records shall be stored by physicians or their authorized agents for a period of at least five (5) years unless otherwise required by law or regulation.

11.4 Medical Records shall be legible and contain the identity of the physician or physician extender and supervising physician by name and professional title who is responsible for rendering, ordering, supervising or billing each diagnostic or treatment procedure. The records must contain sufficient information to justify the course of treatment, including, but not limited to: active problem and mediation lists; patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

Section 12.0 ***Patient Disclosure***

12.1 In accordance with section 5-37-22 of the Rhode Island General Laws, as amended, physicians shall comply with the following provisions:

12.1.1 Any physician who is not a participant in a medical insurance plan shall post a notice, in a conspicuous place in his or her medical offices where it can be read by his or her patients, which shall read, in substance, as follows: "To my patients: I do not participate in a medical insurance plan. You should know that you will be responsible for the payment of my medical fees."

Any physician who fails to post such a notice shall not be entitled to charge his or her patients any amount, for medical fees, in excess of that allowed had the physician participated in such a medical insurance plan.

12.1.2 Every physician shall disclose to patients eligible for Medicare, in advance of treatment, whether such physician accepts assignment under Medicare reimbursement as payment in full for medical services and/or treatment in the

physician's office. Such disclosure shall be given by posting in each physician's office in a conspicuous place a summary of the physician's Medicare reimbursement policy. Any physician who fails to make the disclosure as required herein shall not be allowed to charge the patient in excess of the Medicare assignment amount for the medical procedure performed.

12.1.3 When a patient requests in writing that his or her medical records be transferred to another physician, the original physician shall promptly honor such request. The physician shall be reimbursed for reasonable expenses (as defined in section 11.2 above) incurred in connection with copying such medical records.

12.1.4 Every physician shall, upon written request of any patient (or his or her authorized representative as defined in §5-37.3-3(1)) who has received health care services from such provider, at the option of the physician either permit such patient (or his or her authorized representative) to examine and copy the patient's confidential health care information or provide such patient (or his or her authorized representative) a summary of such information. If the physician decides to provide a summary and the patient is not satisfied with a summary, then the patient may request and the physician shall provide a copy of the entire record. At the time of such examination, copying or provision of summary information, the physician shall be reimbursed for reasonable expenses (as defined above) in connection with copying such information. If in the professional judgment of the physician, it would be injurious to the mental or physical health of the patient to disclose certain confidential health care information to the patient, the physician is not required to disclose or provide a summary of such information to the patient, but shall upon written request of the patient (or his or her authorized representative) disclose such information to another physician designated by the patients.

12.1.5 Every physician who has ownership interest in health facilities, or laboratories, including any health care facility licensed pursuant to Chapter 17 of Title 23, any residential care/assisted living facility licensed pursuant to Chapter 17.4 of Title 23, and any adult day care program licensed or certified by the Director of the Department of Elderly Affairs, or any equipment not on the physician's premises shall, in writing, make full patient disclosure of his or her ownership interest in the facility or therapy prior to utilization. The written notice shall state that the patient has free choice either to use the physician's proprietary facility or therapy or may seek the needed medical services elsewhere.

12.1.6 A physician who practices medical acupuncture as a therapy shall provide full written disclosure to his/her patient receiving medical acupuncture that the physician’s qualifications to practice medical acupuncture are not equivalent to those of doctors of acupuncture licensed in accordance with Chapter 5-37.2 of the Rhode Island General Laws, as amended. Further, a physician integrating medical acupuncture into his/her medical practice shall disclose to the patient the type of pathway (i.e., pain management, primary care) in which the physician was trained.

Section 13.0 ***Collaborative Pharmacy Practice***

13.1 A physician may engage in a collaborative pharmacy practice with a Rhode Island licensed pharmacist pursuant to a collaborative practice agreement, provided that the physician has completed a residency training program, is eligible for certification, or is certified by a member board of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists in the area(s) of medicine included in the practice agreement, and provided that the pharmacist is qualified pursuant to rules and regulations of the Rhode Island Board of Pharmacy.

13.2 Any physician engaging in a collaborative pharmacy practice shall execute a written agreement with a pharmacist which shall include, but is not limited to, the following:

13.2.1 Identification, qualifications, and signatures of the parties to the agreement, the date of signing of the agreement and the term of the agreement. An initial agreement shall be valid for a period not to exceed two (2) years.

13.2.2 A termination clause specifying the responsibilities of each party for records confidentiality and continuity of care, a requirement for written notice and a minimum termination notice period.

13.2.3 The procedures for obtaining informed consent from each patient involved in services pursuant to the agreement.

13.2.4 The role(s) of any health care professional with prescriptive privileges employed by or collaborating with the physician.

13.2.5 The quality assurance procedures of the collaboration.

13.2.6 Proof of liability insurance for all parties to the agreement.

13.2.7 The scope of conditions or diseases to be managed and the practice protocols for management shall be specified as set forth in section 13.6 of these regulations.

13.3 All services provided pursuant to a collaborative practice agreement shall be consistent with said agreement and shall be performed in a setting that ensures patient privacy and confidentiality.

13.4 A patient shall be fully informed of the collaborative nature of drug therapy management for his/her medical conditions.

13.5 A patient may decline to participate in a collaborative pharmacy practice and may withdraw at any time without terminating the physician-patient relationship.

13.6 A separate practice protocol shall be written for each disease or condition to be managed in the collaborative pharmacy practice. The protocol(s) shall be appended to the collaborative practice agreement, and may be revised from time to time by mutual agreement of the parties without affecting the term of the agreement. Practice protocols shall provide, at a minimum:

13.6.1 A description of the type of disease or condition, the drugs or drug categories involved, and the drug therapy management decisions the pharmacist is authorized to engage in.

13.6.2 The procedures, decision criteria and/or plan the physician and pharmacist will follow in providing drug therapy management.

13.6.3 The documentation requirements for the physician and pharmacist.

13.6.4 The reporting and consultation requirements for the physician and pharmacist.

13.6.5 The communication required when a pharmacist decision is over-ridden by the physician.

13.6.6 A provision for review of the outcomes of treatment for patients managed pursuant to the protocol.

13.6.7 The date(s) adopted and/or amended.

13.7 Collaborative pharmacy practice protocols shall only be used for conditions or diseases with generally accepted standards of care. The scope of the collaborative practice shall not include research, clinical or investigational trials.

13.8 Each signatory of a collaborative pharmacy practice agreement shall keep a copy of the agreement with appendices on file at his/her primary place of practice.

13.9 Each patient receiving care pursuant to a collaborative pharmacy practice agreement shall have an authorized prescriber's order in the primary medical record and on file with the pharmacist authorizing the implementation of drug therapy management.

13.10 A file of completed, signed patient consent forms authorizing release of medical information among the health professionals in the collaborative pharmacy practice shall be maintained at the physician practice site and on file with the pharmacist.

13.11 The physician establishing a collaborative practice shall notify the board in writing within 30 days of the effective date of the collaborative practice. The notice shall be submitted on a prescribed form and shall include, at a minimum the principals in the collaborative and the drug therapies to be managed. The Department may request additional information as required to determine compliance with these rules.

PART II ***PRACTICES AND PROCEDURES/SEVERABILITY***

Section 14.0 ***Rules Governing Practices and Procedures***

14.1 All hearings and reviews required under the provisions of the Act and rules and regulations herein, shall be held in accordance with the provisions of the rules and regulations of the Rhode Island Department of Health, entitled *Rules and Regulations of the Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP).*

Section 15.0 ***Severability***

15.1 If any provision of the rules and regulations herein or the application to any facility or circumstances shall not effect 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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