

RULES AND REGULATIONS
FOR LICENSING ADULT DAY CARE PROGRAMS
(R23-1-52ADP)



State of Rhode Island and Providence Plantations

Department of Health

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INTRODUCTION

These *Rules and Regulations for Licensing Adult Day Care Programs (R23-1-52-ADP)* are promulgated pursuant to the authority conferred under section 23-1-52 of the General Laws of Rhode Island, as amended, and are established for the purpose of defining the prevailing standards for licensed adult day care programs in Rhode Island.

Pursuant to the provisions of section 42-35 3(c) of the General Laws of Rhode Island, as amended, the following were given consideration in arriving at the regulations: (a) alternative approaches to the regulations; and (b) duplication or overlap with other state regulations. Based on the available information, no known alternative approach, duplication or overlap was identified

These regulations shall supersede any previous rules and regulations related to the licensure of adult day care programs promulgated by the Rhode Island Department of Elderly Affairs and filed with the Secretary of State.

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Part I *Licensure Requirements*

Section 1.0 *Definitions*

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

- 1.1 "***Adult day care program***" shall mean a comprehensive, nonresidential program designed to address the biological, psychological, and social needs of adults through individual plans of care that incorporate, as needed, a variety of health, social and related support services in a protective setting.
- 1.2 "***Alzheimer Dementia or Other Dementia Special Care Services***" means a program that offers services to one or more participants with a diagnosis of Alzheimer dementia or other dementia.
- 1.3 "***Building Code***" means the current Rhode Island State Building Code, contained in Chapter 23-27.3 of the Rhode Island General Laws, as amended.
- 1.4 "***Case management services***" means a collaborative process of assessment, planning, facilitation and advocacy for options and services to meet an individual's health needs through communication and available resources to promote quality cost-effective outcomes.
- 1.5 "***Department***" means the Rhode Island Department of Health.
- 1.6 "***Direct care staff***" means the program director and all other staff who work directly with program participants.
- 1.7 "***Director***" means the Director of the Rhode Island Department of Health.
- 1.8 "***Disqualifying information***" for criminal records check purposes, and as used herein, means any conviction for murder, voluntary manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, larceny, or felony banking law violations.
- 1.9 "***Elderly***" means any person who is fifty-five (55) years or older.
- 1.10 "***Elopement***", as used herein, means leaving the premises without notice when the adult day care program has assumed responsibility for the participant's whereabouts.
- 1.11 "***Executive director***" means the top administrative staff member, however named, at the adult day care program.
- 1.12 "***Interdisciplinary team***" means at least three (3) professionals, with training in one of each of the following disciplines: nursing, activities, and case management or social work.

- 1.13 ***“Life Safety Code”*** means the current Rhode Island State Fire Safety Code, as contained in Chapter 23-28.1 of the Rhode Island General Laws, as amended.
- 1.14 ***“Medication aide”*** means a nursing assistant who has had additional training in the administration of medications and is registered with the Department in accordance with the regulations of reference 6 herein.
- 1.15 ***“Nurse”*** means a person who is licensed to practice professional or practical nursing in accordance with Chapter 5-34 of the Rhode Island General Laws, as amended.
- 1.16 ***“Other authorized provider working within the scope of his/her practice”***, as used herein, means a physician assistant, dentist, registered nurse practitioner, or other person duly authorized by law to prescribe.
- 1.17 ***“Participant”***, as used herein, means a person who is enrolled in an adult day care program.
- 1.18 ***“Person”*** means any individual, trust or estate, partnership, corporation (including associations, joint stock companies), limited liability companies, state, or political subdivision or instrumentality of a state.

Section 2.0 ***General Requirements***

- 2.1 These rules and regulations shall apply to all adult day care programs that provide services to the elderly who are in need of supportive care and supervision during the daytime.
- 2.2 Effective January 1, 2008, a license issued by the Rhode Island Department of Elderly Affairs under the authority contained in section 42-66-4(c)(15) of the Rhode Island General Laws, as amended, and in accordance with the *Rules and Standards for Licensing of Adult Day Services Programs* with an expiration date on or after December 31, 2007 shall continue to be in full force and effect until March 31, 2009, unless sooner suspended or revoked.
- 2.3 A license issued to a new adult day care program, unless sooner suspended or revoked, shall expire by limitation on March 31st of each odd-numbered year and may be renewed upon application to the Department.
- 2.4 No person, acting alone or jointly with any other person, shall establish, conduct or maintain an adult day care program in this state without a license in accordance with the requirements of section 23 – 1 –52 of the Rhode Island General Laws, as amended, and in conformity with the rules and regulations herein.
- 2.5 No facility or program shall represent itself as an adult day care program or use the term “adult day care program” or any other similar term in its title, advertising, publication or other form of communication, unless licensed as an adult day care program in accordance with the provisions herein.
- 2.6 An application for a license shall be made to the Department, upon forms provided by the Department and shall contain such information as the Department reasonably requires.

- 2.7 Upon receipt of a completed application for a license, the Department may issue a license if the applicant meets the requirements of section 23-1-52 of the Rhode Island General Laws, as amended, and the rules and regulations herein.
- 2.8 A license issued hereunder shall be the property of the state and loaned to such licensee.
- 2.9 The license shall be posted in a conspicuous place on the premises.
- 2.10 Each license shall be issued only for the premises and person(s) named in the application and shall not be transferable or assignable except with the written approval of the Department.
- 2.11 Each program shall be responsible for complying with all local, state, and federal laws, codes, rules and regulations that apply to the program.
- 2.12 Each program shall be responsible for maintaining a policy of nondiscrimination in the provision of services to participants and in the employment of staff without regard to race, color, creed, national origin, sex, sexual orientation, age, handicapping condition or degree of handicap, in accordance with all applicable state and federal statutes and regulations.

Section 3.0 *Responsibilities of the Governing Body/Program*

- 3.1 Each adult day care program shall have an organized governing body or other legal authority, responsible for: (1) the management and control of the operation of the program; and (2) the conformity of the program with all federal, state and local laws and regulations relating to fire, safety, sanitation, communicable and reportable diseases; and (3) other relevant health and safety requirements; and (4) with all of the requirements contained in the rules and regulations herein.
- 3.2 The program shall:
 - a) Maintain names and affiliations of members of the agency's governing body;
 - b) Describe structure of the agency's governing body;
 - c) Provide functional and staff organizational charts;
 - d) Maintain a copy of the organization's charter, constitution or by-laws, that include but are not limited to:
 - 1) a definition of goals, purposes, objectives;
 - 2) a statement of compliance with civil rights act and other federal, state, local laws safe guarding civil rights;
 - 3) appropriate standing committees;
 - 4) a statement of asset disbursement in case of corporate liquidation;
 - 5) evidence of consumer involvement or input into program policies.
 - e) Provide documentation that the governing body does the following:

- 1) provides for annual evaluation;
 - 2) oversee contracts, adopts and operates annual budget, maintains financial records, provides annual audit by an independent certified public accountant;
 - 3) adheres to accepted standards of accounting;
 - 4) employs director and gives person authority to manage the daily affairs according to established personnel and corporate policies;
 - 5) meets at least quarterly and maintains minutes of proceedings.
- 3.3 The governing body shall review, approve, and revise a current, written plan of operation, including a service description for providing adult day care services to frail elderly persons. This description shall be reviewed at least annually, updated as needed, and made available to the Department, upon request.
- 3.4 The program shall demonstrate that it has the capacity to carry out this plan of operation and perform various operational functions needed to oversee and support the program, including the ability to:
- a) manage ongoing operations;
 - b) coordinate across multiple sites, as applicable;
 - c) maintain partnerships with entities and programs; and
 - d) demonstrate an effective approach to program management.
- 3.5 The program shall present a clear and concise annual summary statement of activities and scope of service (e.g., an annual report).
- 3.6 The program shall develop written policies and procedures, consistent with Department regulations, for providing services to participants.
- 3.7 Written protocols shall be developed to specify exactly when (a) the program will be cancelled due to weather conditions and other emergencies and (b) the participants will be evacuated due to power outage and other emergencies. These protocols shall be easily accessible in the facility and in all program vehicles that transport participants and shall include at least the following:
- a) Means by which participants and families are notified of cancellations and early closings.
 - b) Description of location to which participants will be moved in case of evacuation and letter of agreement if this location is not affiliated with the program.
- 3.8 An organization chart shall be developed to illustrate the lines of authority and communication channels, and shall be provided to all program staff.
- 3.9 The director shall have full authority and responsibility to plan, staff, direct, implement, and evaluate the program.

- 3.10 The director or designee shall be on site to provide the program's day-to-day management during hours of operation.
- 3.11 The program shall have a policy assuring that it follows all applicable federal and state requirements including, but not limited to:
 - a) Title V of the Civil Rights Act of 1964;
 - b) Annual Certification Drug-Free Workplace Requirements;
 - c) Certification Regarding Lobbying.
- 3.12 Each program shall inform its staff and participants of the general content of the Department's regulations; and shall develop and implement written plans, policies and procedures to ensure compliance with the Department's regulations. These documents shall be reviewed by the program's governing body at least annually and revised as needed.
- 3.13 The program shall have at least the following written documents:
 - a) Plan for community education and involvement;
 - b) Statement of program philosophy and objectives;
 - c) Mission statement;
 - d) Contracts and agreements with other agencies and individuals.
- 3.14 The program shall have a policy and procedure manual that is written in a format that can be updated, as needed, and shall include date(s) of revision. Each policy shall be signed by the executive director. This manual shall include at least the following areas of program operation:
 - a) Mission and philosophy;
 - b) Organization structure;
 - c) Personnel, including staffing requirements and responsibilities;
 - d) Program description, including program evaluation;
 - e) Participant policies, including admission and discharge; and
 - f) Environmental issues.
- 3.15 Upon request, copies of all policies, procedures and statements adopted by the program pursuant to section 3.14 above shall be provided to participants, their representatives, and members of the general public.

Section 4.0 *Program Evaluation*

- 4.1 The program shall have a self-evaluation and continuous improvement system. This self-

evaluation shall include a statement of the program's goals and objectives and shall be conducted at least annually.

- 4.2 The self-evaluation system shall measure the program's success in achieving the stated goals and objectives and shall review the effectiveness of the program's policies and procedures.
- 4.3 Goals, objectives, policies and procedures shall be revised as needed based on the results of the self-evaluation.
- 4.4 All revised goals, objectives, policies and procedures shall be made available to the program's employees, interns, trainees and volunteers.
- 4.5 The self-evaluation and any changes that result from it shall be documented.

Section 5.0 *Personnel Requirements*

- 5.1 The program shall maintain written personnel policies and procedures that shall include, but not be limited to, the following topics:
 - a) Hiring, training, and supervising all paid and unpaid personnel;
 - b) Use of outside service providers;
 - c) Use of volunteers;
 - d) Notification of employees, consultants, interns, trainees, and volunteers of their responsibilities, rights, benefits, and conditions of employment;
 - e) Written job descriptions:
 - 1) Each staff member shall receive a copy of his/her job description that shall include: educational and work qualifications; major job duties; numbers and titles of persons supervised; and title of the supervisor for the position;
 - f) Supervision and job performance;
 - g) Required education and training;
 - h) Records, including maintenance of records;
 - i) Current salary/wage schedules;
 - j) Fringe benefits and any conditions attached to the benefits;
 - k) Disciplinary procedures and grounds for dismissal; and
 - l) Equal opportunity plan that shall include a statement guaranteeing that hiring and promotion shall be free from unlawful discrimination on the basis of race, color, creed, national origin, sex, sexual orientation, age, physical or mental handicap, or degree of handicap.

5.2 Each program shall have a written plan for no less than ten (10) hours of staff training and development. Training shall include at least the following:

- a) Orientation for all staff at the start of employment. This initial training shall include orientation to the program's policies, procedures, rules, and regulations;
- b) Current first aid training, including cardiopulmonary resuscitation (CPR) and Heimlich Maneuver, for direct program staff (including drivers). Evidence of current first aid training shall be maintained on file and shall be available to the Department upon request.
- c) Universal precautions and latex safety;
- d) Participants' rights, with a focus on dignity, choice, diversity, and cultural sensitivity;
- e) Reporting abuse, mistreatment, and neglect;
- f) Fire safety;
- g) Safe patient handling and body mechanics;
- h) Developing, implementing, and evaluating individual plans of care, as applicable;
- i) Specialized services offered by the program;
- j) Identifying participants who abuse alcohol and/or other substances, suffer from depression, or are victims of elder abuse or self-neglect;
- k) Services available to participants from community programs or agencies;
- l) Medications prescribed for participants, the benefits of the medications, common side effects and risks, and the laws governing administration of prescribed medications; and
- m) Confidentiality of participant information and records. Each employee, consultant, intern, trainee and volunteer shall sign a statement agreeing to abide by the rules and regulations governing participant confidentiality. This signed statement shall be included in the individual's personnel record.

5.3 ***Alzheimer Dementia or Other Dementia Special Care Services:*** The executive director, or his/her designee, shall ensure that all new employees who assist participants with personal care at the ***Alzheimer Dementia or Other Dementia Special Care Services*** level of care receive at least twelve (12) hours of orientation and training in the areas listed below within thirty (30) days of hire and prior to beginning work alone in the adult day care program, in addition to the areas stipulated in section 5.2 above. Such areas shall include, but not be limited to:

- a) understanding various dementias;

- b) communicating effectively with persons with dementia;
 - c) managing behaviors.
- 5.4 Training shall be completed within thirty (30) days of hire and prior to working without direct supervision.
- 5.5 All staff shall receive no less than (10) ten hours of training annually, and as needed, in the topics stipulated in section 5.2 above.
- 5.6 The program director or his/her designee shall evaluate the performance of each employee at the end of his/her probationary period and at least annually thereafter. The governing body or designee shall evaluate the program director. Performance evaluations shall be in writing, and a copy shall be filed in the individual's personnel record. The individual shall be notified, in writing, of the evaluation results.
- 5.7 The program shall maintain confidential personnel records for each employee including time sheets or other records showing all dates and hours worked by each employee and holidays, sick leave, vacation, and unpaid leave taken. Each individual shall have access to his/her personnel record. Each record shall contain at least the following:
- a) A complete job application; and when appropriate, a resume;
 - b) References, which may be documented verbal references or letters of reference;
 - c) For every individual within the program who is licensed, certified or registered by the state of Rhode Island, a mechanism shall be in place to verify currency of licensure electronically via the Department's licensure database;
 - d) Documentation of any participation in job related training, while employed by the program, including the date(s) of training, the provider, the topic, and proof of attendance and completion;
 - e) Performance evaluations;
 - f) Statement signed by the individual agreeing to abide by the rules and regulations regarding the confidentiality of participant information and records.
- 5.8 The program shall have an adequate number of qualified staff to meet the needs of its participants.
- 5.9 The program shall comply with local, state, and federal laws governing hours and conditions of employment and wages.
- 5.10 The program shall assign a staff member to oversee the development, implementation, and periodic review of each participant's individual plan of care; and to monitor and evaluate the participant's progress in achieving his/her treatment goals and objectives.
- 5.11 The program shall have a written agreement with any agency, program, or other service provider that provides essential services not provided directly by and otherwise the

responsibility of the program. This written agreement shall be updated annually. The nature and extent of the services provided shall be documented.

- 5.12 Programs that use volunteers shall have a screening procedure to select volunteers with appropriate skills to work with the participants. The nature and extent of volunteer services shall be documented.

Staffing Requirements

- 5.13 The program shall employ a nurse who shall be on site daily for a minimum of six (6) hours.
- 5.14 The program shall designate one full-time staff member as the program director. The program director shall designate a staff member to act in his/her absence.
- 5.15 Each program shall employ at least one (1) nursing assistant licensed by the Department.
- 5.16 Aides shall be nursing assistants licensed by the Department, or shall be employees who have completed the employee orientation program set forth in section 5.2 herein, prior to providing direct care to participants.
- 5.17 Aides shall be responsible for assisting professional program staff members as required in implementing services and meeting the needs of individual participants.
- 5.18 The program shall identify a staff person responsible for the functions of an activities director who shall be on site daily for a minimum of four (4) hours. The activities director shall have the ability to develop and implement therapeutic activities for specific participants and for groups.
- 5.19 Programs whose daily enrollment is twenty-four (24) or more participants shall provide case management services on-site or shall make them available for a minimum of twenty (20) hours each week.
- 5.20 The program shall have at least one (1) staff member trained in first aid, including cardiopulmonary resuscitation (CPR) and the Heimlich maneuver on site during all operating hours.

Health Screening

- 5.21 Upon hire and prior to delivering services, employment health screenings shall be required for each individual who has or may have direct contact with a program participant. Such health screening shall be conducted in accordance with *the Rules and Regulations Pertaining to Immunization, Testing, and Health Screening for Health Care Workers (R23-17-HCW)* promulgated by the Department of reference 5 herein.

Criminal Background Checks

- 5.22 All direct care employees shall be subject to a criminal background check prior to, or within one (1) week, of employment.

- 5.23 Said employees, through the employer, shall apply to the bureau of criminal identification of the state or local police department or the Rhode Island Attorney General's Office for a criminal records check. Fingerprinting shall not be required as part of this check.
- 5.24 In those situations in which no disqualifying information, as defined herein, has been found, the bureau of criminal identification (BCI) shall inform the applicant and the employer in writing.
- 5.25 Any disqualifying information will be conveyed to the applicant in writing by the BCI. The employer shall also be notified that disqualifying information has been discovered, but shall not be informed of the nature of the disqualifying information.
- 5.26 The employer shall maintain on file, subject to inspection by the Department, evidence that criminal records checks have been initiated on all employees offered employment, as well as the results of said checks.
- 5.27 If an applicant has undergone a criminal records check within eighteen (18) months of an application for employment, an employer may request from the BCI a letter indicating if any disqualifying information was discovered. The BCI will respond without disclosing the nature of the disqualifying information. This letter may be maintained on file to satisfy the requirements of this section.
- 5.28 An employee against whom disqualifying information has been found may request a copy of the criminal background report be sent to the employer who shall make a judgment regarding the continued employment of the employee.

Section 6.0 *Inspections*

- 6.1 The Department shall make or cause to be made such inspections and investigations, as it deems necessary by duly authorized agents of the Director at such time and frequencies as determined by the Department.
- 6.2 A duly authorized representative of the Director shall have the right to enter at any time without prior notice, to inspect the premises and services for which an application has been received, or for which a license has been issued.
- 6.3 Refusal to permit inspection or investigation shall constitute a valid ground for suspension or revocation of license or curtailment of activities.
- 6.4 Each program shall be given notice by the Department of its level of compliance with these rules and regulations, including a list of all deficiencies reported as a result of an inspection or investigation.

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

- 7.1 The Department is authorized to deny, suspend or revoke the license or curtail activities of any adult day services program which (1) has failed to comply with the rules and regulations herein; (2) has offered or provided services to participants outside of the scope of its license; (3) has failed to correct deficiencies or complete corrective action plan; or (4) has failed to

comply with the provisions of section 23 – 1 – 52 of the Rhode Island General Laws, as amended.

- 7.2 Reports of deficiencies shall be maintained on file in the Department and shall be considered by the Department in rendering determinations to deny, suspend or revoke the license or to curtail activities of the adult day program.
- 7.3 Noncompliance with these rules and regulations may constitute grounds to revoke, suspend, curtail the activities of, deny an application for licensure, or otherwise discipline the licensee by the Director.

Section 8.0 *Deficiencies and Plans of Correction*

- 8.1 The Department shall notify the governing body or other legal authority of a program of violations of these regulations through a notice of deficiencies which shall be forwarded to the program within fifteen (15) days of inspection of the program unless the Director determines that immediate action is necessary to protect the health, welfare, or safety of the public or any member thereof through the issuance of an immediate compliance order in accordance with section 23-1-21 of the General Laws of Rhode Island, as amended.
- 8.2 A program which received a notice of deficiencies shall submit a plan of correction to the Department within fifteen (15) days of the date of the notice of deficiencies.
- 8.3 The Department shall approve or reject the plan of correction submitted by a program in accordance with section 8.2 above within fifteen (15) days of receipt of the plan of correction.
- 8.4 If the Department rejects the plan of correction, or if the program does not provide a plan of correction within the fifteen (15) day period stipulated in section 8.2 above, or if a program whose plan of correction has been approved by the Department fails to execute its plan within a reasonable time, the Department may invoke the sanctions enumerated in section 7.0 herein.

Section 9.0 *Change of Ownership, Operation and/or Location*

- 9.1 When a change of ownership or operation or location of an adult day program is planned or when discontinuation of services is contemplated, the Department shall be given written notice of pending changes within forty-five (45) days of such pending changes.
- 9.2 A license shall immediately expire and become void and shall be returned to the Department when operation of an adult day program is discontinued or when any changes in ownership occur.
- 9.3 Prior to operating under a new owner or operator, the prospective licensee shall apply for a new license in accordance with section 2.0 herein.
- 9.4 When there is a change in ownership or in the operation or control of the program, the Department reserves the right to extend the expiration date of such license, allowing the program or program to operate under the same license which applied to the prior licensee for such time as shall be required for the processing of a new application or reassignment of participants, not to exceed six (6) weeks.

Part II *Requirements for Adult Day Care Programs*

Section 10.0 *Admission Policies and Procedures*

- 10.1 Each adult day services program shall define the target population(s) it serves.
- 10.2 Each adult day services program shall have a written policy on participants who are appropriate for enrollment.
- 10.3 Each adult day services program shall have a mission and philosophy statement that reflects the needs of the participants and the care and services it provides.
- 10.4 Each participant shall have a physical/mental condition that indicates a need for nursing care, supervision, therapeutic services, support services, and/or socialization.
- 10.5 Each adult day services program shall serve only participants whose needs are compatible with the program's resources.
- 10.6 No less than fifty-one percent (51%) of the program's average daily number of participants shall be fifty-five (55) years of age or older.
- 10.7 Prior to an individual's acceptance as a participant, the program shall require a notice from the applicant's primary care physician (or other authorized provider acting within the scope of his/her practice) including a medical history and documentation that a physical examination has taken place within the past year. Physician's (or other authorized provider acting within the scope of his/her practice) documentation shall include, but not be limited to, the following:
 - a) A list of current medications and treatments;
 - b) A list of immunizations (e.g., tetanus, pneumococcal, influenza) with dates; and indication of TB test results, if test has been given;
 - c) Any special dietary requirements;
 - d) A statement indicating any limitations to the individual's participation in program activities;
 - e) Recommendations for therapy, when applicable.
- 10.8 In a documented crisis situation, the program may allow up to thirty (30) days after enrollment in the program for receipt of the complete physician's documentation as required in section 10.7 above.
- 10.9 The program shall have procedures for orientation of the participant and/or family to policies, services, and facilities.
- 10.10 The program shall assure that all participants or their authorized representatives review all consents and permission documents and either sign where indicated or state in writing that

they have read and understand the documents and are unwilling to sign them. Copies of these signed documents shall be filed in the participant's individual record.

- 10.11 The participant and family shall be informed of the program's procedures for advance directives.
- 10.12 Program policies shall define the target population, admission criteria, discharge criteria, medication policy, participant rights, confidentiality, and grievance procedures.

Section 11.0 *Participant Policies*

- 11.1 All programs shall promote a restraint-free environment. The use of chemical and/or physical restraints shall be restricted to those participants whose physicians (or other authorized provider acting within the scope of his/her practice) have ordered such restraints.
- 11.2 The rights listed in section 12.1 herein shall be posted. These rights shall be explained to all participants or their representatives, families, staff, and volunteers in the language understood by the individual.
- 11.3 A grievance procedure shall be established to enable participants and their families/caregivers to have their concerns addressed without fear of recrimination.
- 11.4 The program shall comply with the state mandatory procedures for reporting suspected elder abuse to the Department as outlined in Chapter 23-17.8 of the Rhode Island General Laws, as amended. Any employee of a licensed adult day care program who has reasonable cause to believe that a participant has been abused, exploited, neglected, or mistreated shall, within twenty-four (24) hours of the receipt of said information, transfer such to the Director. Staff shall be trained in signs and symptoms of potential abuse.

Section 12.0 *Participant Rights and Responsibilities*

- 12.1 Adult day services programs shall assure that all participants are afforded the following rights, as well as any others deemed appropriate by the specific program:
 - a) The right to be treated with consideration, respect, and dignity, including privacy in treatment;
 - b) The right to participate in program of services and activities designed to encourage independence, learning, growth and awareness of constructive ways to develop one's interests and abilities;
 - c) The right to self-determination within the day services setting, including the opportunity to:
 - 1) Participate in developing or changing one's plan for services;
 - 2) Decide whether or not to participate in any given activity;
 - 3) Be involved to the extent possible in program planning and operation;

- 4) Refuse treatment and be informed of the consequences of such refusal;
- 5) End participation in the adult day services program at any time.
- d) The right to a thorough initial assessment, development of an individualized plan of care, and a determination of the required level of care;
- e) The right to be cared for in an atmosphere of sincere interest and concern in which needed support and services are provided;
- f) The right to a safe, secure, and clean environment;
- g) The right to receive nourishment and assistance with meals as necessary to maximize functional abilities and quality of life;
- h) The right to confidentiality and the guarantee that no personal or medical information will be released to persons not authorized under law to receive it without the participant's written consent, in accordance with Chapter 5-37.3 of the Rhode Island General Laws, as amended;
- i) The right to voice grievances about care or treatment without discrimination or reprisal;
- j) The right to be fully informed, as documented by the participant's written acknowledgment, of all participants' rights and of all rules and regulations regarding participant conduct and responsibilities;
- k) The right to be free from harm, including unnecessary physical or chemical restraint, isolation, excessive medication, abuse, or neglect;
- l) The right to be fully informed, at the time of acceptance into the program, of services and activities available and related charges;
- m) The right to communicate with others to the extent of the participant's capability.

Section 13.0 *Program Services*

13.1 Programs shall offer, or make available through arrangements with community agencies, the services specified below in order to meet the needs of the participant population:

- a) Nursing services shall be provided in accordance with the particular needs of each participant and shall include, but not be limited to, the following:
 - 1) Supervision of and/or administration of medications and treatments as prescribed by the participant's physician (or other authorized provider working within the scope of his/her practice);

- 2) Participation in the development and implementation of the individual participant's plan of care;
 - 3) Ongoing monitoring of each participant's health status;
 - 4) Maintenance-therapy treatment as recommended by a therapist; and
 - 5) Coordination of orders from the participant's physician (or other authorized provider working within the scope of his/her practice).
- b) Programs shall provide or arrange for health education, which may include promotion, prevention, screening and detection.
- 13.2 Therapeutic services shall be provided to, or coordinated for, each participant, as needed, when recommended by a therapist or prescribed by a physician (or other authorized provider working within the scope of his/her practice).
- 13.2.1 Therapeutic services shall include occupational, physical, and/or speech therapy.
- 13.3 The program shall establish written agreements with occupational, physical, and speech therapists to define the nature and extent of the working relationship.
- 13.4 Program staff members shall provide therapeutic services to participants following a plan of care devised by a therapist.
- 13.5 Program staff members shall provide maintenance therapy to meet the particular needs of a participant when indicated by the program therapy consultants or the participant's physician (or other authorized provider acting within the scope of his/her practice). The program's nurse, or other licensed professional, shall supervise the administration of maintenance therapy to participants.
- 13.6 Program staff members shall provide individual and group activity programs that offer social, recreational, and educational events.
- 13.7 The dignity, interests, and therapeutic needs of individual participants shall be considered in the development of activity programs.
- 13.8 Nursing assistants and aides, under the supervision of a nurse, shall provide personal care services and shall offer training and assistance in dressing, grooming, personal hygiene, use of special aids, accident prevention, and activities of daily living.
- 13.9 Personal care services and assistance with activities of daily living shall be provided in a safe and hygienic manner, with recognition of each individual participant's dignity and right to privacy, and in a manner that encourages the maximum level of independence.
- 13.10 Programs shall provide a noon meal and make available two (2) snacks per day for each participant every full day he/she attends the program.

- 13.11 Menus shall be developed under the direction of a nutritionist or registered dietician licensed by the Department.
- 13.12 The noon meal shall be equivalent to at least one-third the recommended daily dietary allowance established by the U.S. Department of Agriculture (USDA).
- 13.13 The program shall provide or arrange for any special diets, if required by a participant and prescribed by his/her physician (or other authorized provider working within the scope of his/her practice).
- 13.14 The program shall offer or arrange for nutritional counseling, as necessary.
- 13.15 Food shall be prepared in accordance with the *Food Code* of reference 12 herein.
- 13.16 The program shall assist participants and their families with personal and social issues.
- 13.17 The program shall provide or arrange for mental health and substance abuse services for participants when indicated by a physician (or other authorized provider working within the scope of his/her practice).
- 13.18 Mental health and substance abuse services shall be documented in the individual participant's plan of care.
- 13.19 The program shall establish written emergency policies and procedures. Emergency procedures shall include, but not be limited to, the following:
 - a) A written plan and/or agreement for emergency care;
 - b) A written plan and/or agreement for emergency transportation;
 - c) A file readily located for each participant containing at least the following:
 1. Name and telephone number of his/her physician;
 2. Hospital preference;
 3. Insurance information;
 4. Medications and allergies;
 5. Current diagnoses and history;
 6. Name and telephone number of emergency contact;
 7. Copy of any advance directive, power of health care attorney, etc.; and
 8. Photograph (for participant identification);

- d) A conspicuously displayed notice indicating emergency fire procedures in accordance with local and state fire department regulations;
 - e) Training for participants in emergency procedures, written records of which shall be kept; and
 - f) Annual training for direct program staff members, including drivers, in emergency procedures, written records of which shall be kept.
- 13.20 The program shall provide a balance of purposeful activities to meet the participants' needs and interests (i.e., social, intellectual, cultural, economic, emotional, physical, and spiritual).
- 13.21 Program activities and services shall be designed to promote personal growth and enhance the self-image, and/or improve and maintain the functioning level of participants to the extent possible.
- 13.22 Activity opportunities shall be available whenever the program is in operation.
- 13.23 If a participant receives services from several community agencies, the program shall coordinate with the participant's case manager to ensure that services are not duplicated.
- 13.24 Programs shall arrange for ancillary services to meet needs identified through the assessment and individual care planning process.
- 13.25 Ancillary services shall include education for the participant and/or family caregiver and may be delivered on a one-to-one basis or in a group setting.
- 13.26 Ancillary services shall be provided within the framework of the individualized plan of care and as part of the overall array of services the participant receives.
- 13.27 Services shall be rendered in accordance with the prevailing community standard of practice.

Section 14.0 *Alzheimer Dementia or Other Dementia Special Care Services Disclosure*

- 14.1 Any adult day care program that offers to provide or provides services to participants with Alzheimer dementia or other dementia shall be required to disclose the type of services provided, in addition to those services required by the rules and regulations herein.
- 14.2 Said disclosure shall be made to the Department and to any person seeking placement in an Alzheimer Dementia or other dementia special care services component of an adult day care program.
- 14.3 The information disclosed shall explain the additional care that is provided in each of the following areas:
- a) ***Philosophy:*** the Alzheimer Dementia or other Dementia special care services written statement of its overall philosophy and mission which reflects the needs of participants affected by dementia;

- b) ***Termination from the Program:*** the process and criteria for transfer or termination from the program/unit;
 - c) ***Assessment, Service Planning & Implementation:*** the process used for assessment and establishing the plan of service and its implementation, including the method by which the plan of service evolves and is responsive to changes in condition;
 - d) ***Staffing Patterns and Training Ratios:*** staff training and continuing education practices;
 - e) ***Physical Environment:*** the physical environment and design features appropriate to support the functioning of cognitively impaired adults;
 - f) ***Participant Activities:*** the frequency and types of activities for participants;
 - g) ***Family Role in Providing Support and Services:*** the involvement in families and family support programs;
 - h) ***Program Costs:*** the cost of care and any additional fees.
- 14.4 The Department shall develop a standard disclosure form and shall review the information provided on the disclosure form by the adult day care program to verify the accuracy of the information reported on it. Any significant changes in the information provided by the shall be reported to the Department at the time the changes are made.
- 14.5 Any adult day care program that provides care for participants with Alzheimer disease or other dementia shall maintain written policies and procedures that detail specific services, including admission and discharge criteria for participants and/or their responsible parties in the program.
- 14.6 Training for employees who work in an Alzheimer Dementia or other dementia special care services program shall meet all of the requirements of sections 5.2 and 5.3 herein.
- 14.7 The adult day care program that has an Alzheimer Dementia or other dementia special care services program shall have no less than one (1) registered nurse on staff and available for consultation at all times with appropriate training and/or experience with dementia to manage and supervise all participant dementia-related health and behavioral issues.
- 14.8 The adult day care program with an Alzheimer Dementia or other dementia special care services program shall provide a secure environment appropriate for the participant population. This requirement may include, but not be limited to, a locked unit, secured perimeter, or other protocol to ensure participant safety and quality of life. The adult day care program shall have elopement policies in place.

Section 15.0 ***Individual Assessments, Plans of Care, and Participant Records***

- 15.1 Each adult day services program shall conduct an assessment of each potential participant in order to determine whether or not that participant is suitable for enrollment in the program.

- 15.2 This assessment shall be conducted by a licensed staff member working within the scope of his/her practice, shall be reviewed by a registered nurse, and shall include interviews of family members, as appropriate.
- 15.3 Initial assessment information and information provided by the applicant's physician (or other authorized provider acting within the scope of his/her practice) shall be reviewed by at least one registered nurse member of the program.
- 15.4 The assessment shall include no less than the following components:
- a) Participant's ability to self-preserve including cognitive and physical considerations;
 - b) Assistance with medications that may be required;
 - c) Health status including medical and nursing needs;
 - d) Dementia care needs;
 - e) Assistance with personal needs, including activities of daily living;
 - f) Providing or arranging for health and supportive services;
 - g) Monitoring activities to ensure health, safety, and well-being;
 - h) Cognitive needs;
 - i) Functional needs; and
 - j) Social needs.
- 15.5 Written documentation of this initial assessment shall be maintained by the program in the participant's record.
- 15.6 Upon admission to the program, program staff shall negotiate a written agreement with the participant, and if appropriate, with the participant's legal guardian. This agreement shall specify at least the following:
- a) A disclosure statement that describes the program's range of care and services;
 - b) Basic services offered to the participant by the program;
 - c) Staffing profile;
 - d) Participant confidentiality policies and procedures;
 - e) Admission, discharge, and/or transfer criteria;
 - f) Fees and arrangements for reimbursement and payment;

- g) Identification of and authorization for third party payers;
 - h) Any non-financial obligations of the participant and his/her family, such as a commitment by the participant to attend the program a specified number of days per week;
 - i) Days and hours of program operation;
 - j) Schedule of holidays when the program is closed;
 - k) Announcement procedures for unexpected closing of the program due to disaster or severe weather conditions.
- 15.7 Each participant shall designate a health care provider to contact in the event of an emergency and for ongoing care.
- 15.8 Each program shall maintain a participant record system, including a separate record for each participant.
- 15.9 Programs shall conduct the assessment as required herein and utilize the results of this assessment to develop an individual written plan of care for each participant within thirty (30) days after the individual enters the program.
- 15.10 Each plan of care shall be drafted by an interdisciplinary team, with input from nursing assistants. The participant, caregiver, and other service providers shall have the opportunity to contribute to the development, implementation, and evaluation of his/her care plan.
- 15.11 If coordination of care is needed and if the participant is a client of another agency, the care plan shall be developed in conjunction with the services provided by that agency. The participant's case manager or other appropriate staff member from that agency shall be invited to participate in the care-planning meeting.
- 15.12 The individual plan of care shall consist of these elements:
- a) Specific problems, needs or challenges faced by the participant;
 - b) Realistic goals and/or objectives for the participant for each item identified in 14.11 (a) above;
 - c) Measurable action steps to be taken during the coming quarter to achieve the goals and/or objectives identified in section 14.11 (b) above;
 - d) Specific observations to be made and/or data to be collected to measure progress toward achieving the goals and/or objectives identified in section 14.11 (b) above; and
 - e) Specific timelines for making observations and collecting data as identified in 14.11 (d) above.

- 15.13 There shall be a care plan review quarterly conducted by one of the three members of the interdisciplinary team, including the participant and/or family/ caregiver, that reassesses the individual participant's needs and reevaluates the appropriateness of service plans. At least the following items shall be reviewed:
- a) Scheduled days of attendance;
 - b) Services, objectives, and goals of the plan of care;
 - c) Progress, or lack thereof, in achieving objectives and goals of the plan of care; and
 - d) Conditions of participation.
- 15.14 Progress notes shall be written no less than monthly by a licensed member of the interdisciplinary team and shall be maintained as part of each participant's record.
- 15.15 The program shall maintain individual participant records arranged for ready access by staff.
- 15.16 Each individual participant record shall contain at least the following sections:
- a) Progress notes no less than monthly and quarterly;
 - b) Assessment information;
 - c) Summary of quarterly plan of care meetings, including names and titles of all in attendance and documentation of any person(s) invited who did not attend;
 - d) Medical and other health-related information, including physician's (or other authorized health care provider's) orders;
 - e) Medication records; and
 - f) Financial records, including eligibility and payment documents.
- 15.17 Emergency information about each participant and a recent photograph of each participant shall be maintained for ready access.
- 15.18 Individual participant records and all other documents associated with identifiable individual participants shall be maintained as confidential materials in accordance with current state and federal laws, rules and regulations. Storage of all participant records and documents shall assure their safety from inappropriate use and from fire and other unplanned destruction.
- 15.19 The program shall develop and follow written policies establishing guidelines for storage and retention of participant records, including but not limited to the following:
- a) The required participant information shall be contained in record formats appropriate to the efficient and effective delivery of services and accessible for review upon request by the Department or other appropriate health oversight agency.

- b) Guidelines for the removal of participant records from file.
- c) Retention of participant records for five (5) years from the date of discharge in accordance with Chapter 23-3 of the Rhode Island General Laws, as amended.

Section 16.0 *Discharge Planning*

- 16.1 The program shall develop a re-evaluation protocol that specifies:
- a) Those changes in medical and/or behavioral status that trigger an unscheduled reassessment of the participant;
 - b) Observational and data-gathering procedures—including inquiries made of the family concerning the participant’s status outside program hours—to yield measurable status changes;
 - c) Procedures to be followed by the treatment team to attempt to modify status changes so that the participant may continue in the program;
 - d) Description of criteria to be followed to determine that discharge procedures should be initiated.
- 16.2 Steps taken under the re-evaluation protocol shall be documented in the individual participant record.
- 16.3 The program shall develop a discharge protocol that includes criteria and notification procedures.
- 16.4 Discharge/transition plans shall be developed for participants that describe changes in service needs and changes in functional status that prompted another level of care.
- 16.5 Each participant and/or family/caregiver shall be given written notice if the participant is to be discharged from the program.
- 16.6 Discharge procedures shall include at least the following:
- a) A discharge summary;
 - b) Recommendations for continuing care;
 - c) In consultation with the participant, family member or guardian, referral to community service agencies for any appropriate services, if the participant is returning to more independent living.
- 16.7 The program shall complete and maintain on file a discharge form indicating a discharge plan for each participant leaving the program.
- 16.8 The program shall discuss and agree upon the discharge plan with the participant and his/her family as far in advance of discharge as possible.

- 16.9 Any adult day care program that refers participants to any health care facility licensed pursuant to Chapter 23-17 of the Rhode Island General Laws, as amended, to an assisted living residence licensed pursuant to Chapter 23-17.4 of the Rhode Island General Laws, as amended, or to an adult day care program in which the referring entity has a financial interest shall, at the time a referral is made, disclose and document that the following information was provided to the participant:
- a) That the referring entity has a financial interest in the program or provider to which the referral is being made;
 - b) That the participant has the option of seeking care from a different program or provider that is also licensed by the state to provide similar services to the participant.
- 16.10 The adult day care program shall offer the participant a written list prepared by the Department of all alternative licensed health care facilities, assisted living residences, and adult day services programs. Said written list may be obtained by contacting:

Rhode Island Department of Health
Office of Facilities Regulation
3 Capitol Hill, Room 305
Providence, RI 02908
(401) 222-2566
www.health.ri.gov

Section 17.0 *Medication Services*

- 17.1 The program shall store and administer medications to participants as required and in accordance with all applicable state and federal laws and regulations.
- 17.2 Participants shall have the right to refuse any and all medications.
- 17.3 The program shall inform the participant's family when a participant has refused medication(s). The nurse shall inform the participant's physician (or other authorized provider acting within the scope of his/her practice), as she/he deems appropriate.
- 17.4 The program shall have the right not to accept, and/or to discharge a participant who refuses assistance with medications if the program reasonably feels that the participant cannot safely possess and control his/her medications.
- 17.5 The program shall record each instance of medication refusal by a participant in the participant's individual record.
- 17.6 All medications shall be stored securely and in a manner to prevent spoilage, dosage errors, administrative errors, inappropriate access, or diversion. Provided, further, medications stored in a refrigerator shall be stored separately from the food in a secured container.
- 17.7 Licensed nurses and medication aides may administer medications and monitor health indicators.

- 17.8 All medications shall be checked against a physician's (or other authorized provider working within the scope of his/her practice) orders by a nurse or pharmacist.
- 17.9 All medications shall be in the original pharmacy-dispensed container with a proper label and directions attached and shall be administered in accordance with such label.
- 17.10 Injectable medications, including but not limited to insulin, shall be administered by a nurse.
- 17.11 Individual medication records shall be retained for each participant to whom medications are being administered and each dose administered to the participant shall be properly recorded.
- 17.12 Such records shall be retained by the program for no less than five (5) years after discharge from the program.
- 17.13 A nurse shall monitor the medication regimen for all participants.
- 17.14 Unused or discontinued prescription medications shall be the property of the participant and shall be given to the participant's family, whenever possible.
- 17.15 Any unused or discontinued prescription medications that are left with a program shall be disposed of in accordance with the *Rules and Regulations Governing the Disposal of Legend Drugs* of reference 2 herein.

Part III *Environmental Requirements*

Section 18.0 *Environment*

- 18.1 The facility housing the program shall be constructed, equipped, and maintained to protect the safety and well-being of participants.
- 18.2 The facility shall comply with applicable state and local building regulations and zoning, fire, and health codes and ordinances, including Rhode Island State Fire Safety Code (Chapter 23-28.1 of the Rhode Island General Laws, as amended) and the Rhode Island State Building Code (Chapter 23-27.3 of the Rhode Island General Laws, as amended).
- 18.3 The program shall comply with the requirements of the federal Americans with Disabilities Act.
- 18.4 A program with participants who are blind, deaf and /or physically disabled shall be subject to all applicable requirements of the American National Standards Institute (ANSI STANDARDS) of reference 7 herein.
- 18.5 The program shall obtain annual certification from its local fire department approving the facility for program operation. Such certification shall indicate the maximum daily occupancy.
- 18.6 The program shall submit copies of such certifications to the Department with application for license.
- 18.7 The sign for the program shall be visible, and the entrance to the program shall be clearly identified.
- 18.8 The program, when it is co-located in a facility housing other services, shall have its own separate identifiable space for activity areas during operating hours.
- 18.9 The facility shall have sufficient space to accommodate the full range of program activities, services, and equipment.
- 18.10 Each program shall have the following areas:
 - a) A dining area;
 - b) A food preparation area in compliance with the *Food Code* of reference 3 herein;
 - c) A project area equipped with adequate table and seating space (a dining area may be used);
 - d) A group activity area;
 - e) A private, enclosed space, free from disruption, for individual nursing services and counseling;
 - f) A properly equipped rest area; and

- g) Properly equipped, handicapped-accessible bathrooms.
- 18.11 There shall be private space to permit staff to work effectively and without interruption.
- 18.12 Identified space shall be available for participants and/or family/ caregivers to have private discussions with staff.
- 18.13 There shall be storage space for program and operating supplies.
- 18.14 Outside space that is used for outdoor activities shall be safe, accessible to indoor areas, and accessible to persons with a disability.
- 18.15 The program shall provide a comfortable, sanitary environment for the frail, elderly population it serves.
- 18.16 All rooms utilized by participants shall have proper ventilation.
- 18.17 All steps, stairs, and corridors shall be suitably lighted. Stairs used by participants shall have banisters, hand rails or other types of support. All stair treads shall be well maintained to prevent hazards.
- 18.18 Halls and exit ways shall be free from all encumbrances and/or impediments.
- 18.19 Space shall be available for the safe arrival and departure of participants.
- 18.20 Illumination in all areas shall be adequate and glare shall be avoided.
- 18.21 Sound transmission shall be controlled.
- 18.22 Conditions shall be maintained within a comfortable temperature range to accommodate the population served.
- 18.23 Sufficient, appropriate furnishings shall be available for the entire participant population present.
- 18.24 Program restrooms shall be located as near the activity area as possible.
 - 18.24.1 Restrooms shall meet current Americans With Disabilities (ADA) requirements.
 - 18.24.2 Every restroom door shall be designed to permit the opening of the locked door from the outside.
- 18.25 Each program shall have at least one (1) shower or other accommodation for bathing.
- 18.26 The overall design of the program shall facilitate participants' movement throughout the facility and encourage involvement in activities and services.

Section 19.0 *Construction and Renovations*

- 19.1 Any licensee or applicant desiring to make alterations or additions to its facility or to construct a new facility shall, before commencing such alteration, addition, or new construction, inform the Department. The Department may conduct preliminary inspection and approval or make recommendations with respect to compliance with the regulations herein.
- 19.2 All new construction, modification, additions, or room conversions shall be subject to the provisions of references 8 (State Fire Code), 9 (State Building Code), 7 (ANSI Code), 10 (Americans with Disabilities Act), and such other applicable federal, state and local laws, codes and regulations as may be applicable. Where there is a difference between codes, the code having the more stringent standard shall apply.

Section 20.0 *Transportation Services*

- 20.1 The program shall provide transportation and/or assist in arranging transportation services for participants and maximize the use of transportation arranged by the participant's family.
- 20.2 When transportation is provided to participants through program operated vehicles, the operation of each vehicle shall be in conformity with all applicable state and federal regulations related to the driver, vehicle, and transportation services.
- 20.3 Programs that operate their own vehicle(s) shall employ drivers who possess the appropriate current motor vehicle license(s) for the size and seating capacity of the vehicle(s).
- 20.4 Drivers shall have experience in transporting passengers and shall be sensitive to the needs of aged individuals and individuals with handicapping conditions.

Section 21.0 *Safety and Sanitation*

- 21.1 The facility and grounds shall be safe, clean and accessible to all participants.
- 21.2 Smoking shall not be permitted in the facility .
- 21.3 At least two (2) well-identified exits shall be available to participants.
- 21.4 Universal precautions shall be practiced by all staff.
- 21.5 The program shall comply with rules and regulations pertaining to the use of latex gloves by health care workers promulgated by the Department and as contained in reference 4 herein.
- 21.6 The program shall be free of hazards, such as exposed electrical cords, loose area rugs and steep grades.
- 21.7 Steps and curbs shall be painted and the edges of stairs marked appropriately to highlight them.

- 21.8 Procedures for fire safety as approved by the state and local fire authorities shall be adopted and posted.
- 21.9 Appropriate fire extinguishers shall be installed on each occupied level of the facility and maintained in a usable condition, inspected at specified intervals as stipulated by manufacturers and local and state fire authorities.
- 21.10 The program shall develop and maintain a written plan and procedure for the evacuation of the premises in case of fire or other emergency.
- 21.11 An evacuation plan shall be posted in each room.
- 21.12 Emergency procedures shall be clearly outlined and posted in conspicuous locations throughout the facility.
- 21.13 Drills simulating emergency conditions to test the effectiveness of the plan shall be conducted in accordance with the requirements of the Office of the State Fire Marshal with documentation of observed ability of participants and staff to carry out evacuation procedures.
- 21.14 Emergency first aid kits shall be accessible to staff.
- 21.15 There shall be sufficient maintenance and housekeeping personnel to assure that the facility is clean, sanitary, and safe at all times.
- 21.16 Toxic substances, whether for activities or cleaning, shall be stored in a locked area not accessible to participants.
- 21.17 A safety guide for dealing with spills of toxic substances, chemicals, and other liquids including blood shall be posted and followed by all staff.
- 21.18 Insect infestation control shall be scheduled at a time when participants are not in the facility.
- 21.19 Equipment shall be adequately and safely maintained.
- 21.20 The program shall have a sufficient budget for equipment maintenance, repair, or replacement of all equipment.
- 21.21 Programs shall have on-site at least the following health care and safety equipment:
 - a) An emergency first aid kit;
 - b) A scale for weighing participants;
 - c) A blood pressure cuff and stethoscope;
 - d) A thermometer;
 - e) A proper, secure storage space (including refrigeration , as needed) for medications;
 - f) Sufficient number of blankets; and
 - g) A portable oxygen tank for emergencies.

Part IV *Variance, Practices and Procedures, and Severability*

Section 22.0 *Variance Process*

- 22.1 The Department may grant a variance either upon its own motion or upon request of the applicant from the provisions of any rule or regulation in a specific case if it finds that a literal enforcement of such provision will result in unnecessary hardship to the applicant and that such a variance will not be contrary to the public interest, public health or safety of the participants.
- 22.2 A request for a variance shall be submitted in writing by the applicant or licensee to the Department for review.
- 22.3 Within a reasonable time thereafter, the Department will review the application and return a written decision to the applicant.
- 22.4 If the applicant is dissatisfied with the decision of the Department, an appeal may be made through the process outlined in section 23.0 herein.

Section 23.0 *Rules Governing Practices and Procedures*

- 23.1 All hearings and reviews required under the provisions of section 23-1-52 of the Rhode Island General Laws, as amended, shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island 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)* of reference 11 herein.

Section 24.0 *Severability*

- 24.1 If any provision of the rules and regulations herein or the application thereof to any program or circumstances shall be held invalid, such invalidity shall not affect the provision 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.

REFERENCES

1. Section 23-1-52 of the Rhode Island General Laws, as amended, "Adult Day Care Program Licensure." Available online:
<http://www.rilin.state.ri.us/Statutes/TITLE23/23-1/23-1-52.HTM>
2. *Rules and Regulations Governing the Disposal of Legend Drugs (R21-31-LEG)*, Rhode Island Department of Health, May 2002 and subsequent amendments thereto. Available online:
http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_165_.pdf
3. *Food Code (R23-1, 21-27-FOOD)*, Office of Food Protection, Rhode Island Department of Health, October 2007 and subsequent amendments thereto. Available online:
<http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/4885.pdf>
4. *Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department (R23-73-LAT)*, Rhode Island Department of Health, May 2002 and subsequent amendments thereto. Available online:
http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_2008_.pdf
5. *Rules and Regulations Pertaining to Immunization, Testing, and Health Screening for Health Care Workers (R23-17-HCW)*, Rhode Island Department of Health, January 2007 and subsequent amendments thereto. Available online:
<http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/4465.pdf>
6. *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*, Rhode Island Department of Health, March 2008 and subsequent amendments thereto. Available online:
<http://www.health.ri.gov/hsr/regulations/proposed/nursingasst-med%20tech-proposed-jan08.pdf>
7. "The American National Standard - Specifications for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped", American National Standards Institute, Inc., 1430 Broadway, New York, New York 10013.
8. "Rhode Island State Fire Safety Code", Chapter 23-28.1 of the General Laws of Rhode Island, as amended. Available online:
<http://www.rilin.state.ri.us/Statutes/TITLE23/23-28.1/INDEX.HTM>
9. "The Rhode Island State Building Code", Chapter 23-27.3 of the General Laws of Rhode Island, as amended. Available online:
<http://www.rilin.state.ri.us/Statutes/TITLE23/23-27.3/INDEX.HTM>
10. "The Americans with Disabilities Act," U.S. Code Title 42 Sections 12101--12213; Title 47 Sections 152, 221, 225, 611; Title 29 Section 706 effective July 21, 1990. Amendments effective November 21, 1991: 105 Stat. 1077, 1095.

11. *Rules and Regulations of the Rhode Island 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)*, Rhode Island Department of Health, April 2004 and subsequent amendments thereto. Available online:
http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_2945.pdf
12. *Food Code (R23-1, 21-27-FOOD)*, Office of Food Protection, Rhode Island Department of Health, October 2007 and subsequent amendments thereto. Available online:
<http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/4885.pdf>