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## **TITLE 216 - DEPARTMENT OF HEALTH**

### **CHAPTER 10 - PUBLIC HEALTH ADMINISTRATION**

#### **SUBCHAPTER 05 - PRACTICES AND PROCEDURES**

##### **PART 1 - Access to Public Records**

### **1.1 Authority**

These regulations are promulgated pursuant to the authority set forth in R.I. Gen. Laws Chapter 38-2, for the purpose of establishing the procedures and methods for obtaining access to public records of the Rhode Island Department of Health.

### **1.2 Definitions**

A. When used in these regulations, the following words and terms, except as otherwise required by the context, shall have the following meaning:

1. "Act" means R.I. Gen Laws Chapter 38-2 entitled "Access to Public Records."
2. "Department" means the Rhode Island Department of Health.
3. "Director" means the Director of the Department of Health or her/his designee.
4. "Public record" or "public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities) or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

### **1.3 General Provisions**

#### **1.3.1 Public Records Policy**

The Department recognizes both the public's right to access public records and the individual's right to dignity and privacy. It is the Department's policy to facilitate public access to all public records as defined in accordance with the Act. It is also the policy of the Department to make all public records in the

Department's possession available for public inspection and copying consistent with applicable state or federal law, unless otherwise prohibited by a court of competent jurisdiction.

### **1.3.2 Exclusions**

- A. Categories of records specifically excluded pursuant to R.I. Gen. Laws § 38-2-2(4) shall not be deemed public records for the purpose of these Regulations.
- B. Treatment of segregable portions of public records is pursuant to R.I. Gen. Laws § 38-2-3(b).

### **1.3.3 Non-applicability**

Records requested by subpoena or a government oversight committee are not considered requests "for access to public records." Therefore, this Part is not applicable to those requests.

## **1.4 Access to Public Records**

### **1.4.1 Public Records**

All public records of the Department shall be open for public inspection, in accordance with provisions of R.I. Gen. Laws § 38-2-3, and in accordance with the policy established in § 1.4.6 of this Part.

### **1.4.2 Procedures for Requesting Public Records**

- A. The Department has instituted the following procedures for members of the public to obtain public records:
  - 1. A written request is not required for records available pursuant to the Act or other documents prepared for or readily available to the public. Members of the public can request public records from the Department by accessing the Department's website: <http://www.health.ri.gov/records/about/requests>, or by contacting the Department's Office of Legal Services, which is the Department's designated public records unit. The mailing address is: Department of Health, Office of Legal Services, 3 Capitol Hill, Providence, RI 02908.
  - 2. You are not required to provide identification or the reason you seek the information. Your right to access public records will not depend upon providing identification or reasons.
  - 3. In order to assure that the Department is able to respond to the request as efficiently and as completely as possible, the request should identify and describe the records being requested with as much specificity as possible. If the description of records being requested is not sufficient to allow the

Department to identify and locate the requested records, the Department will notify the person requesting such records that additional information is needed in order to properly respond to the request.

4. Copies of public records will be provided electronically, by facsimile or by mail in accordance with the requestor's choice, unless complying would be unduly burdensome due to the volume of records requested or the costs that would be incurred. The requestor is responsible for the actual cost of delivery, if any.
5. The timeframes for the Department's response are pursuant to R.I. Gen. Laws § 38-2-3(e).
6. Any denial of access to records, in whole or in part, will be provided through a written response to the requestor indicating the reasons for the denial of access to records or for the denial of certain information contained in a record that is otherwise public pursuant to R.I. Gen. Laws § 38-2-2. The written response will also include the process for appeals outlined in R.I. Gen. Laws § 38-2-8.
7. Any individual who receives a denial for copies of requested records or the ability to inspect records may petition the Director for a review of the determinations. The Director shall make a final determination whether or not to allow public inspection within ten (10) business days. If the denial is confirmed, the individual may file a complaint with the Office of the Attorney General, who will then investigate and make a determination pursuant to R.I. Gen. Laws § 38-2-8. The individual may also file a lawsuit in Superior Court pursuant to R.I. Gen. Laws § 38-2-9.

#### **1.4.3 Copy of Official Publications and Rules and Regulations**

Official publications which the Department prepares in the discharge of its duties to inform the public on matters of public interest shall be furnished free of charge when available. The Department shall supply one (1) copy of its rules and regulations, on a particular subject, to an individual requesting the same, free of charge. Electronic copies of the rules and regulations promulgated by the Department are also available on the Office of the Secretary of State website [<http://www.sos.ri.gov/rules/>]. Certified copies of Department regulations may also be obtained from the Office of the Secretary of State.

#### **1.4.4 Fee for Records**

- A. The Department charges a fee for copying and/or search and retrieval of requested documents consistent with applicable state law.
  1. The costs for copying and/or search and retrieval of documents is pursuant to R.I. Gen. Laws § 38-2-4.

2. Upon request, the Department will provide the requester with an estimate of the copying costs and search and retrieval costs prior to responding to the request. The Department however, will charge the actual fees for the number of copies and the actual cost for search and retrieval time if those are more or less than estimated.
3. The Department reserves the right to require a deposit of the estimated costs if the estimated costs are fifty dollars (\$50.00) or more.
4. Department personnel or, where applicable an outside copy service, will make copies of requested records. The Department does not have a copy machine available for use by the public to make copies.

#### **1.4.5 Payment in Advance**

The cost of copying and search and retrieval as provided in § 1.4.4 of this Part must be paid in advance of or at the time of delivery or inspection of the requested documents.

#### **1.4.6 Hours of Inspections**

- A. When a request is made to inspect public records, the requester will be advised when the records are available and he/she can then make an appointment to inspect those documents at the Department between the hours of 8:30 a.m. and 3:30 p.m. Monday through Friday.
- B. The time frame for the Department to respond to requests to inspect public records is the same as the time frame applicable to responding to requests for copies of public records as set forth in § 1.4.2 of this Part.

#### **1.4.7 Supervision of Inspections**

No records shall be removed from the location of inspection by the requestor. The inspection of public records must be accomplished in a manner which will provide for general supervision by authorized Departmental staff. This is necessary to prevent the misplacement or unauthorized removal of records or any other action which may impair the integrity of the public record.