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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
R.I. DEPARTMENT OF HEALTH

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PUBLIC HEARING IN RE:
RULES AND REGULATIONS FOR PAIN
MANAGEMENT, OPIOID USE AND
THE REGISTRATION OF DISTRIBUTORS
OF CONTROLLED SUBSTANCES IN
RHODE ISLAND

ORIGINAL

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R.I. DEPARTMENT OF HEALTH
3 FRANCIS STREET
PROVIDENCE, RI 02908
APRIL 24, 2019
10:00 A.M.

BEFORE: SULLIVAN ROBERTS, HEARING OFFICER

M.E. HALL COURT REPORTING
108 WALNUT STREET
WARWICK, RI 02888
(401) 461-3331

1 APPEARANCES :

2 ALSO PRESENT: PETER RAGOSTA, CHIEF OF PHARMACY
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E X H I B I T S

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1 (COMMENCED AT 10:08 A.M.)

2 HEARING OFFICER ROBERTS:

3 Welcome. We are here today to conduct a public
4 hearing concerning the Rules and Regulations
5 for Pain Management Opioid Use and the
6 Registration of Distributors and Controlled
7 Substances in Rhode Island. This hearing is
8 being conducted under the provisions of Rhode
9 Island General Laws 23-17 and 42-35. Today is
10 Wednesday, April 24, 2019. My name is Sullivan
11 Roberts, Rules Coordinator for the Rhode Island
12 Department of Health, also known as RIDOH, and
13 I will be the Hearing Officer for today's
14 proceedings. This is Peter Ragosta, Chief of
15 Pharmacy for RIDOH.

16 Before we start, and to prevent
17 any interruption of the proceedings, at this
18 time, I would like to ask those of you with
19 cell phones, pagers and watch alarms to turn
20 them off or set them to silent or vibrate.

21 The purpose of the hearing today
22 is to afford interested parties an opportunity
23 to comment on the proposed Regulations, allow
24 as many people as possible to be heard and to

1 ensure that an accurate record of all comments
2 is obtained. This hearing is intended for your
3 participation only and is not intended to
4 provide a forum for discussing, debating,
5 arguing or otherwise having any dialogue on the
6 Regulations before us with RIDOH personnel as
7 part of this public hearing.

8 If you will like to speak, the
9 procedure we will use is as follows: Please
10 register to speak at the rear of the room.
11 Speakers will be taken in order of
12 registration. Up to five minutes will be
13 allowed for your presentation, unless the lack
14 of speakers allows for additional time. Any
15 interruptions due to the Stenographer's need to
16 clarify your testimony will not count against
17 your allotted time.

18 If you are reading off a
19 prepared document such as a paper copy or
20 electronic version of your testimony, we
21 politely request that you speak clearly and at
22 an unhurried pace so that the Stenographer can
23 appropriately capture your testimony in its
24 entirety. I will indicate when you have one

1 minute of time remaining. If you are unable to
2 complete your testimony in the time allotted,
3 you may have an opportunity to speak if any
4 time is remaining after the other speakers who
5 have signed up complete their testimony.

6 When you are called, come to the
7 podium, identify yourself by name and
8 affiliation, if any. Please spell your name
9 and give the full name of your organization if
10 you use an acronym, such as NASA. Make your
11 presentation, and make sure to conclude within
12 the allotted time of five minutes. If you have
13 a written copy of your statement, we would
14 appreciate if you could provide it for the
15 record. If you read from an electronic version
16 of your testimony, we would appreciate if you
17 could provide a hard copy or e-mail us your
18 testimony. In accordance with the requirements
19 of the Administrative Procedures Act,
20 additional written comments on these proposed
21 amendments will be accepted by Monday, May 13,
22 2019. After the conclusion of the public
23 comment period, RIDOH has four options under
24 state law.

1 The first option is to file the
2 Regulations as posted with the Secretary of
3 State.

4 The second option is to file
5 with minor technical changes such as correcting
6 spelling, punctuation, et cetera.

7 The third option is to make
8 non-technical changes in what you see before
9 you today, which would be addressed in RIDOH's
10 concise explanatory statement filed with the
11 final Regulations, and could also necessitate a
12 new public hearing and associated public notice
13 posting.

14 And the fourth option is to not
15 file the proposed Regulations in which case the
16 current Regulations would remain in effect.
17 Unless otherwise specified by law, regulation,
18 or at the discretion of RIDOH, once filed, the
19 Regulations become effective 20 days after
20 filing and have the force of law on that date.
21 Are there any questions on how the public
22 hearing will be conducted today?

23 (PAUSE)

24 HEARING OFFICER ROBERTS: At

1 this time, for the record, we will have a
2 presentation of exhibits. The first exhibit is
3 the Notice of Proposed Rule Making posted on
4 the Rhode Island Secretary of State and RIDOH's
5 web sites on April 12, 2019.

6 (EXHIBIT 1, NOTICE OF PROPOSED
7 RULE MAKING, MARKED)

8 HEARING OFFICER ROBERTS: The
9 second exhibit is a copy of the proposed
10 Regulations with revisions indicated posted to
11 the Rhode Island Secretary of State's and
12 RIDOH's web sites on April 12, 2019.

13 (EXHIBIT 2, PROPOSED
14 REGULATIONS, MARKED)

15 HEARING OFFICER ROBERTS: The
16 third exhibit is a copy of the existing
17 Regulations for Pain Management Opioid Use and
18 the Registration of Distributors and Controlled
19 Substances in Rhode Island last filed with the
20 Rhode Island Secretary of State in July of
21 2018.

22 (EXHIBIT 3, EXISTING RULES AND
23 REGULATIONS, MARKED)

24 HEARING OFFICER ROBERTS: The

1 fourth exhibit is the Concise Statement of
2 Proposed Non-technical Amendments to the
3 Regulations posted to the Rhode Island
4 Secretary of State's and RIDOH's web sites on
5 April 12, 2019.

6 (EXHIBIT 4, CONCISE STATEMENT OF
7 PROPOSED NON-TECHNICAL AMENDMENTS, MARKED)

8 HEARING OFFICER ROBERTS: The
9 fifth exhibit is a copy of Rhode Island General
10 Laws 21-28-3.01, the enabling statute for these
11 Regulations.

12 (EXHIBIT 5, RIGL 21-28-3.01,
13 MARKED)

14 HEARING OFFICER ROBERTS: The
15 sixth and final exhibit is a copy of the e-mail
16 dated April 9, 2019, from the Office of
17 Regulatory Reform to Sullivan Roberts,
18 confirming that Sullivan Roberts was authorized
19 to move forward with the promulgation of these
20 records.

21 (EXHIBIT 6, OFFICE OF REGULATORY
22 REFORM E-MAIL, 4-9-19, MARKED)

23 HEARING OFFICER ROBERTS: At
24 this time, I would like to call the first

1 speaker, Kim M. Gilbout (sic)?

2 AUDIENCE: Gilbert.

3 HEARING OFFICER ROBERTS:

4 Gilbert. Sorry.

5 MS. GILBERT: Do you want me up
6 here?

7 HEARING OFFICER ROBERTS: Yes,
8 please.

9 MS. GILBERT: Good morning. My
10 name is Kim Gilbert. I'm an occupational
11 therapist in the State of Rhode Island. I'm
12 the vice-president of the Rhode Island
13 Occupational Therapy Association, and I'm a
14 member of the American Occupational Therapy
15 Association, and I'm here today to ask you to
16 consider adding occupational therapy under
17 Section 4.4, Section I, 1, that states, under
18 multi-disciplinary approach to treatment of
19 chronic pain, I'm asking you to consider adding
20 occupational therapy where you have already
21 included physical therapy. Would you like me
22 to give an explanation?

23 (PAUSE)

24 MS. GILBERT: Okay. Just I

1 would like to say that occupational therapists
2 work in a wide range of areas, pediatrics and
3 adults, acute care, chronic care; and we often
4 work with individuals to mitigate pain in a
5 wide range of activities, splints, orthotics,
6 positioning and education; so, I think we would
7 be a good addition to non-medication options or
8 in addition to medication options. Thank you.

9 HEARING OFFICER ROBERTS: Thank
10 you. The next speaker is Steve Detoy.

11 MR. DETOY: Thank you. Steve
12 Detoy, D, as in David, E, T, as in Tom, O-Y,
13 Director of Government and Public Affairs for
14 the Rhode Island Medical Society. I had not
15 planned to be speaking today, but I do have two
16 issues that I wish to raise for consideration.
17 And the first one I will apologize because it's
18 something that's been here for awhile, and I
19 had not caught until this morning; and that is
20 under definitions. The proposed new definition
21 15, initial prescription means first
22 prescription given to someone who's new to the
23 prescription of opioids from your institution.
24 Does not -- physician offices would not

1 technically be included in institutions, and I
2 know that that's be there for a while, but it
3 kind of is confusing without that inclusion of
4 office-based practice or out-patient or some
5 reference outside of an institution, which most
6 of us, I think, normally think of as the
7 hospital.

8 My main concern, also, this
9 morning goes around 4.4(Q). This deals with
10 the non-opioid directives and the statute that
11 was passed last year. Q starts with voluntary
12 non-opioid directive, which indicates to all
13 practitioners that the individual must not be
14 administered or offered a prescription or
15 medication. That definition goes beyond the
16 statute, particularly the clause which
17 indicates to all practitioners. It is not in
18 the statute. The statute requires a physician
19 to take and file in the patient's electronic
20 health record the request for non-opioid
21 directive.

22 I then move over from Q, which I,
23 to Q2, which requires that the non-opioid
24 directive or the revocation of such form must

1 be filed in the patient's electronic health
2 record. That is true from the statute,
3 although the statute nor the Regulations make
4 any consideration for a physician practice or a
5 prescribing practice, whether it be podiatry,
6 dentist or whatever, that do not have
7 electronic records for their patients.

8 And the final clause also
9 requiring that they be filed in the PDMP goes
10 way beyond the law. First of all, I'm not sure
11 that physicians have the opportunity or the
12 logistical capability to file anything in the
13 PDMP. They are required to check it, but I
14 don't believe they have the ability to insert
15 information into the PDMP. Not only, in going
16 back to the, my first comment about Q being,
17 indicate to all practitioners, if it's in an
18 electronic health record, and that patient is a
19 participant in Current Care would be about the
20 only way that that could be made available; but
21 the physician may not know or would have no
22 reason to know that the patient is signed up
23 for Current Care. So, that's the only way that
24 information gets channeled and shared with

1 other providers.

2 So, I would raise those comments,
3 and I think that they are significant enough to
4 require rewrite of this section so that we
5 don't inadvertently put a bunch of prescribers
6 in violation of the Regulations that go beyond
7 what the statute originally authorizes. Thank
8 you.

9 HEARING OFFICER ROBERTS: Thank
10 you. Are there any other persons present who
11 would like to make a statement concerning the
12 property Regulations?

13 (PAUSE)

14 HEARING OFFICER ROBERTS: Thank
15 you all for your attendance and for the
16 information you have offered. This hearing is
17 now closed.

18 (HEARING CLOSED AT 10:26 A.M.)

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C E R T I F I C A T E

I, Mary Ellen Hall, hereby certify that the foregoing is a true, accurate and complete transcript's of my notes taken at the above-entitled hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of April, 2019.

Mary Ellen Hall/Notary Public

MARY ELLEN HALL, NOTARY PUBLIC/
CERTIFIED COURT REPORTER

JOB DATE: 4-24-19

IN RE: PAIN MANAGEMENT, OPIOID USE AND THE
REGISTRATION OF DISTRIBUTORS OF
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