

RULES AND REGULATIONS
FOR THE LICENSING OF
SCHOOL-BASED HEALTH CENTERS
(R23-17-SBHC)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

NOVEMBER 2001

As Amended:

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

INTRODUCTION

These *Rules and Regulations for School-based Health Centers* (R23-17-SBHC) are promulgated pursuant to the authority conferred under section 23-17-10 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting minimum standards for licensed school-based health centers in this state.

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: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact placed on facilities through these regulations. No alternative approach was identified. The protection of the health, safety and welfare of the public necessitates the adoption of these regulations despite the economic impact which may be incurred as a result of the regulations.

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PART I ***LICENSING PROCEDURES AND DEFINITIONS***

Section 1.0 ***Definitions***

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

- 1.1 ***"Department"*** means the Rhode Island Department of Health.
- 1.2 ***"Director"*** means the Director of the Rhode Island state Department of Health.
- 1.3 ***"Health care facility"*** means any institutional health service provider, facility or institution, place, building, agency, or portion thereof, whether a partnership or corporation, whether public or private, whether organized for profit or not, used, operated, or engaged in providing health care services, including but not limited to hospitals; nursing facilities; home nursing care provider (which shall include skilled nursing services and may also include activities allowed as a home care provider or as a nursing service agency); home care provider (which may include services such as personal care or homemaker services); rehabilitation centers; kidney disease treatment centers; health maintenance organizations; free-standing emergency care facilities, and facilities providing surgical treatment to patients not requiring hospitalization (surgi-centers); hospice care, and physician office settings providing surgical treatment. The term "health care facility" also includes organized ambulatory care facilities which are not part of a hospital but which are organized and operated to provide health care services to outpatients such as central services facilities serving more than one health care facility or health care provider, treatment centers, diagnostic centers, rehabilitation centers, outpatient clinics, infirmaries and health centers, school based health centers, and neighborhood health centers; providing, however, that the term "health care facility" shall not apply to organized ambulatory care facilities owned and operated by professional service corporations as defined in Chapter 5.1 of Title 7, as amended (the "Professional Service Corporation Law"), or to a private practitioner's (physician, dentist, or other health care provider) office or group of the practitioners' offices (whether owned and/or operated by an individual practitioner, alone or as a member of a partnership, professional service corporation, organization, or association). Individual categories of health care facilities shall be defined in rules and regulations promulgated by the licensing agency with the advice of the Health Services Council. Rules and regulations concerning hospice care shall be promulgated with regard to the "Standards of a Hospice Program of Care", promulgated by national hospice organization. Any provider of hospice care who provides such hospice care without charge shall be exempt from the licensing provisions of Chapter 23-17 of the Rhode Island General Laws, as amended, but shall meet the "Standards of a Hospice Program of Care." Facilities licensed by the Department of Mental Health, Retardation and Hospitals, and the Department of Human Services, and clinical laboratories licensed in accordance with Chapter 16.2 of Title 23 as well as Christian Science institutions (also known as Christian Science Nursing Facilities) listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc. shall not be considered health care facilities for purposes of Chapter 23-17 of the Rhode Island General Laws, as amended.
- 1.4 ***"Hospital"*** means a facility with a governing body, an organized medical staff and a nursing service providing equipment and services primarily for inpatient care to persons who require definitive

diagnosis and treatment for injury, illness or other disabilities or pregnancy. A hospital shall provide psychiatric and/or medical and/or surgical care and at least the following services: dietetic, infection control, medical records, laboratory, pharmaceutical and radiology, except that a psychiatric facility need not provide radiology services.

- 1.5 **"Licensing agency"** means the Rhode Island Department of Health.
- 1.6 **"Limited function test"** means those tests listed in the Federal Register under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) as waived tests.
- 1.7 **"Organized Ambulatory Care Facility"** hereinafter referred to as *OACF* shall mean a structurally distinct public or private health care establishment, institution or facility, primarily constituted, staffed and equipped to deliver ambulatory and urgent health care services as defined in section 1.1 of the regulations of reference 21 herein, to the general public and known by such terms as central service facility, treatment center, diagnostic center, rehabilitation center (outpatient), infirmary, outpatient clinic or health center which is not a part of a hospital, excluding however, organized ambulatory care facilities owned and operated by professional service corporations as defined in Chapter 7-5.1 of the General Laws of Rhode Island, as amended, (the "Professional Services Corporation Law"), or to a private practitioner's (physician, dentist or other health care provider) office, and/or operated by an individual practitioner, alone or as a member of a partnership, professional service corporation, organization or association), and those health care facilities otherwise licensed by or under the jurisdiction of the Department of Health and/or the Department of Mental Health, Retardation and Hospitals, or other governmental agency.
- 1.8 **"Person"** means any individual, trust or estate, partnership, corporation (including associations, joint stock companies) state, or political subdivisions or instrumentally of the state.
- 1.9 **"Premises"** means a tract of land and the buildings thereon where direct patient care services are provided.
- 1.10 **"School-based health center"** means a facility located in an elementary or secondary school that delivers primary and preventive health care services to students on-site.

Section 2.0 **General Requirements**

- 2.1 No person acting severally or jointly with any other person shall establish, conduct, or maintain a school-based health center in this state without a license in accordance with the requirements of section 23-17-4 of reference 1, and shall meet the requirements of the rules and regulations herein. In order to apply for and/or to maintain a school-based health center license, a person must possess a current license as a health care facility under the provisions of Chapter 23-17 of the Rhode Island General Laws, as amended.
- 2.2 No person shall represent itself as a school-based health center unless licensed as a school-based health center pursuant to the provisions herein.

- 2.3 School health services provided to students in accordance with the *Rules and Regulations for School Health Programs (R16-21-SCHO)* of reference 23 herein shall not require licensure as a school-based health center. Nothing in these regulations shall be construed as prohibiting school health personnel from rendering school health services in accordance with these aforementioned regulations of reference 23.
- 2.4 School-based health centers shall be exempt from the provisions of section 23-17-14.3 and 23-17-14.4 of the Rhode Island General Laws, as amended.

Section 3.0 *Application for License*

- 3.1 Application for a license to conduct, maintain or operate a school-based health center shall be made to the licensing agency upon forms provided by it, and shall contain such information as the licensing agency reasonably requires, including but not limited to, evidence of ability to comply with the provisions of reference 1 and the rules and regulations herein.
- 3.2 A notarized listing of names and addresses of direct and indirect owners of the licensed health care facility (see requirements of section 2.1 above) whether individual, partnership, or corporation with percentages of ownership designated shall be provided with the application for licensure and shall be updated annually. The list shall include each owner (in whole or in part) of the facility or any of the property or assets of the facility. The list shall also include all officers, directors and other persons or any subsidiary corporation owning stock, if the facility is organized as a corporation, and all partners if the facility is organized as a partnership.
- 3.3 There shall be a current, written memorandum of understanding in place that delineates the responsibilities of both the facility and the public school district.

Section 4.0 *Issuance and Renewal of License*

- 4.1 Upon receipt of an application for a license, the licensing agency shall issue a license or renewal thereof for a period of no more than one (1) year if the applicant meets the requirements of reference 1 of the rules and regulations herein. Said license, unless sooner suspended or revoked, shall expire by limitation on the 31st day of December following its issuance and may be renewed from year to year after inspection and approval.
- 4.2 A license shall be issued to a specific licensee for a specific location and shall not be transferable. The license shall be issued only for the premises and the individual owner, operator, or lessee or to the corporate entity responsible for its governance.
- 4.3 Thirty (30) days prior to voluntary cessation of any school-based health center license, the Department of Health shall be notified and provided with a plan for orderly closure, notification and transfer of patients, transfer and storage of medical records, and notification of the public.

Section 5.0 *Inspections*

- 5.1 The licensing agency shall make or cause to be made such inspections and investigations as it deems necessary, including health care records, in accordance with section 23-17-10 of reference 1 and the rules and regulations herein.
- 5.2 Every school-based health center shall be given prompt notice by the licensing agency of any deficiencies reported as a result of an inspection or investigation.

Section 6.0 ***Denial, Suspension, Revocation of License or Curtailment of Activities***

- 6.1 The licensing agency is authorized to deny, suspend or revoke the license of or to curtail the activities of any school-based health center which: (1) has failed to comply with the rules and regulations pertaining to the licensing of a school-based health center; and (2) has failed to comply with the provisions of reference 1.
 - 6.1.1 Reports of deficiencies noted in inspections conducted in accordance with section 21.0 herein shall be maintained on file in the licensing agency, and shall be considered by the licensing agency in rendering determinations to deny, suspend or revoke the license or to curtail activities of a school-based health center.
- 6.2 Whenever an action shall be proposed to deny, suspend or revoke the license of or to curtail the activities of a school-based health center, the licensing agency shall notify the school-based health center by certified mail, setting forth reasons for the proposed action, and the applicant or licensee shall be given an opportunity for a prompt and fair hearing in accordance with section 23-17-8 of reference 1 and section 42-35-9 of reference 2 and pursuant to the provisions of section 22.0 herein.
 - 6.2.1 However, if the licensing agency finds that public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the licensing agency may order summary suspension of license or curtailment of activities pending proceedings for revocation or other action in accordance with section 23-1-21 of reference 3 and section 42-35-14(c) of reference 2.
- 6.3 The appropriate state agencies shall be notified of any action taken by the licensing agency pertaining to either denial, suspension, or revocation of license or curtailment of activities.

PART II *ORGANIZATION AND MANAGEMENT*

Section 7.0 *Governing Body and Management*

- 7.1 Each facility shall have an organized governing body or equivalent legal authority, ultimately responsible for: (1) the program and operation of the school-based health center; (2) the assurance of the quality of care and services; and (3) the compliance with all federal, state and local laws and regulations pertaining to safety, sanitation, communicable and reportable diseases, smoking policies and other health and safety requirements relevant to school-based health centers and all rules and regulations herein.
- 7.2 The governing body or equivalent legal authority shall ensure appropriate personnel, physical resources, and equipment to facilitate the delivery of school-based health center services, during established hours of operation.
- 7.3 The governing body or equivalent legal authority shall adopt written policies defining the responsibilities for the operation and performance of the school-based health center and identifying purposes and means of fulfilling such. In addition, the governing body or equivalent legal authority shall establish administrative/clinical policies pertaining to no less than the following:
- a) the scope of health and medical services to be provided, as described in the *Guidelines for School-based Health Centers* of reference 16 herein;
 - b) maintain linkages and referrals with other health care facilities to assure continuity of care;
 - c) quality assurance for patient care and services; and
 - d) such other matters as may be relevant to the organization and operation of the school-based health center.

Quality Improvement

- 7.4 The governing body shall ensure that there is an effective, ongoing, school-based health center wide quality improvement program to evaluate the provision of patient care. The quality improvement activities at the school-based health center shall be coordinated with and integrated into the quality improvement activities for similar services at other health care facilities operated by the licensee.
- 7.5 The organized school-based health center wide quality improvement program shall be ongoing and shall have a written plan of implementation.
- 7.6 The school-based health center shall take and document appropriate remedial action to address problems identified through the quality improvement program. The outcome(s) of the remedial action shall be documented.

Pending and Actual Labor Disputes/Actions

- 7.7 Pursuant to section 23-17-48 of the Rhode Island General Laws, as amended, health care facilities shall provide the licensing agency with prompt notice of pending and actual labor disputes/actions which would impact delivery of patient care services including, but not limited to, strikes, walk-outs, and strike notices. Health care facilities shall provide a plan, acceptable to the Director, for continued operation of the facility, suspension of operations, or closure in the event of such actual or potential labor dispute/action.

Section 8.0 *Medical Oversight*

- 8.1 Each school-based health center shall have a physician licensed in this state who shall be responsible for the achievement and maintenance of the quality of health care services and the establishment of policies and procedures for health care services based on recognized standards of practice.

Section 9.0 *Personnel*

- 9.1 The school-based health center shall be staffed with appropriate professional and ancillary personnel who shall be assigned duties and responsibilities that are consistent with licensure/certification requirements, their training and experience, and services rendered. Staff performing functions requiring certification and/or licensure shall be duly licensed in Rhode Island as required by statute.
- 9.2 Each school-based health center shall have at least one (1) appropriately qualified health professional staff person on duty at all times when services are provided.
- 9.3 Pursuant to section 23-17-47 of the Rhode Island General Laws, as amended, a health care facility shall require all persons who examine, observe, or treat a patient of such facility to wear a photo identification badge which states, in a reasonably legible manner, the first name, licensure/registration status, if any, and staff position of such person. This badge shall be worn in a manner that makes the badge easily seen and read by the patient or visitor.
- 9.4 The school-based health center shall have written job descriptions that define qualifications, responsibilities, and supervision of all school-based health center personnel.

Health Screening

- 9.5 Upon hire and prior to delivering services, an employment health examination shall be required for each individual and shall include a physician's (or other licensed practitioner acting within his/her scope of practice) certification (i.e., documented evidence) which shall include, but not be limited to, screening for the infectious diseases described below. If documented evidence is provided by the individual that said health examination, including the required screenings, has been performed during the most recent six (6) months prior to hire, the requirements of this section shall be met.
- 9.5.1 ***Tuberculosis (TB)***: Evidence that the individual is free of active tuberculosis based upon the results of a negative two-step tuberculin skin test shall be required.

- a) If the Mantoux (PPD/tuberculin) test is positive, or a previous one is known to have been positive, the physician's certification shall be based on documentation of adequate chemotherapy for TB or on a chest x-ray taken not more than six (6) months prior to the physician's certification.
- b) Any positive reaction must be recorded in millimeters in the personnel record.

9.5.2 **Rubella:** In accordance with the current guidelines of *The Red Book: Report on the Committee for Infectious Diseases* and the *Advisory Council on Immunization Practices (ACIP)*, evidence of immunity is required (with the exception of individuals who are not fit subjects for immunization for documented medical reasons) of all health care workers through:

- a) Documented record of rubella immunization; or
- b) Serologic evidence of naturally acquired immunity.

9.5.3 **Measles:** In accordance with the current guidelines of *The Red Book: Report on the Committee for Infectious Diseases* and the *Advisory Council on Immunization Practices (ACIP)*, evidence of immunity is required (with the exception of individuals who are not fit subjects for immunization for documented medical reasons) of all health care workers through:

- a) Proof of physician-documented illness; or
- b) Positive serologic test for antibody; or
- c) Documented receipt of either **one** (1) dose of measles-containing vaccine (for persons born on or before 31 December 1956) or **two** (2) doses of live-virus measles vaccine (for persons born on or after 01 January 1957). All documented receipt of vaccines must have occurred after the first birthday.

9.5.4 **Influenza:** Each facility shall offer annual vaccination against influenza to all persons involved in direct patient care, including employees and volunteers. The facility shall be responsible for documenting and reporting to the Department annually (by July 1st of each year): 1) the number of persons who are eligible for said vaccination; and 2) the number of persons who accept said vaccination. Further, the facility shall be responsible for providing, on an annual basis, to those persons having direct patient contact, staff education on the nature of influenza and the role of vaccination in controlling its spread.

9.5.5 Such other appropriate test(s) to control communicable diseases as may be prescribed by the Director of Health.

9.6 **Blood borne pathogens:**

Facilities must adhere to the OSHA Blood borne Pathogens Standard (29 CFR 1910-1030), including the offering of hepatitis B vaccination along with all recommendations for infection control training and provision of protective equipment to those individuals at risk.

An exposure control plan shall be in place in all facilities licensed by the Department of Health, pursuant to the provisions of Chapter 23-17 of the General Laws.

- 9.7 The school-based health center shall have a policy related to individual health screenings (other than those described above) that may be required to document that individuals are physically able to perform their duties and show no evidence of communicable disease.

Section 10.0 ***Rights of Patients***

- 10.1 Consistent with section 23-17-19.1 (16) of the Rhode Island General Laws, as amended, each school-based health center shall observe each of the following age-appropriate rights with respect to each patient who utilizes the facility.

Each patient can expect to:

- a) Be treated respectfully.
- b) Receive the information needed to make intelligent choices about the health care received.
- c) Receive information concerning treatment and be informed of the medical consequences of refusing treatment.
- d) Receive private, confidential care.
- e) Have the ability to refuse the release of medical records.
- f) Receive referrals for care that the provider is unable to meet.
- g) Have the ability to register complaints regarding the care received or lack thereof.
- h) Have school-based health center respond in a reasonable manner to the request of a patient's physician for medical services to the patient. The school-based health center shall also respond in a reasonable manner to the patient's request for other services customarily rendered by the school-based health center to the extent the services do not require the approval of the patient's physician or are not inconsistent with the patient's treatment;
- i) Be furnished with the identities of all other health care and educational institutions that the school-based health center has authorized to participate in the patient's treatment and the nature of the relationship between the institutions and the school-based health center;
- j) Upon request, be informed of any research project, and be offered the right to refuse to participate in the project. The school-based health center shall also comply with any additional provisions for research stipulated by the school department.

- k) Have the ability to examine any pertinent school-based health center rules and regulations that specifically govern the patient's treatment;
 - l) Be offered treatment without discrimination as to race, color, religion, national origin, sexual orientation, disability, or source of payment.
- 10.2 Each school-based health center shall display in a conspicuous place in the licensed school-based health center a copy of the "Rights of Patients", including but not limited to, the patient rights stated above.

PART III *HEALTH CARE SERVICES*

Section 11.0 *Management of Services*

- 11.1 Policies and procedures pertaining to the provision of services and supported by appropriate manuals and reference material shall be established by the appropriate professional staff and approved by the governing body. Such policies and procedures shall pertain to no less than the following:
- a) the responsibility of the physician(s) for the provision of health care services;
 - b) the designation of personnel authorized to deliver health care services in accordance with licensure and/or certification requirements;
 - c) standards of practice for each health care service provided;
 - d) procedures that may and may not be performed;
 - e) procurement and storage of all drugs and medications in accordance with references 4 and 5 herein and disposal of all drugs and medications in accordance with reference 22 herein;
 - f) designation of personnel authorized to prescribe, administer, dispense, or dispose of drugs in accordance with licensure and/or certification requirements;
 - g) disposal of hypodermic needles, syringes and instruments in accordance with the requirements of reference 6 herein;
 - h) disclosure of patient information in accordance with federal and state law; and
 - i) such other conditions as may be deemed appropriate.

Section 12.0 *Laboratory Services*

12.1 Clinical laboratory services may be provided on the premises of the school-based health center.

- a) If the laboratory services only consist of limited function tests, as defined herein, these services shall be subject to the *Code of Federal Regulations* of reference 15 herein.
- b) If the laboratory services consist of tests more complex than limited function tests, the laboratory shall be additionally subject to the provisions of Chapters 23-16.2 and 23-16.3 of the General Laws of Rhode Island, as amended, and the regulations adopted thereunder (see references 17--20 herein).

Section 13.0 *Infection Control*

13.1 Policies and procedures governing infection control and reporting techniques shall be established in accordance with this section.

13.2 Infection control provisions shall be established for the mutual protection of patients, employees, and the public.

13.3 ***Reporting of Communicable Diseases:***

- a) School-based health center personnel who are charged with reporting communicable diseases (e.g., physicians, physician assistants, registered nurse practitioners, midwives) shall promptly report to the Rhode Island Department of Health cases of communicable diseases designated as "reportable diseases" by the Director of Health, when such cases are diagnosed in the school-based health center in accordance with the most current rules and regulations pertaining to the reporting of communicable diseases (see reference 12 herein).
- b) When infectious diseases present a potential hazard to patients or personnel, these shall be reported to the Rhode Island Department of Health, even if not designated as "reportable diseases."
- c) School-based health centers must, in addition, comply with all other laboratory reporting requirements for tuberculosis, HIV/AIDS, sexually transmitted diseases, childhood lead poisoning, and occupational diseases as outlined in the regulations of reference 12 herein.

Section 14.0 ***Health Care Records***

14.1 Each school-based health center shall maintain a health care record on every patient seeking health care services.

14.2 For each visit to the school-based health center, the health care record shall contain documentation relating to the following:

- a) patient identification (name, address, age and sex);
- b) pertinent health history and physical findings;
- c) diagnostic and therapeutic orders;
- d) reports of procedures, tests and findings of each visit;
- e) diagnostic impressions; and
- f) such other pertinent data as may be necessary to insure continuity of patient care.

14.3 Procedures shall be established to ensure confidentiality of all medical records, including computer or electronic records.

- 14.4 Each school-based health center shall make provisions for the appropriate release or transfer of patient care information in accordance with the legal requirements governing confidentiality of health care information.
- 14.5 All medical records, either originals or accurate reproductions, shall be preserved for a minimum of five (5) years, except that records of minors shall be kept for at least five (5) years after such minor shall have reached the age of 18 years.

Section 15.0 ***Medical Equipment***

- 15.1 Medical equipment and supplies for the reception, appraisal, examination, treatment and observation of patients shall be determined by the amount, type and extensiveness of services provided.

PART IV *PHYSICAL PLANT AND EQUIPMENT*

Section 16.0 *Physical Facility*

- 16.1 All construction shall be subject to the laws, rules, regulations and codes of references 1, 7, 8 and all other appropriate state and local laws, codes, regulations and ordinances. Where there is a difference between codes, the code having the more stringent standard shall apply.
- 16.2 Any plans for alterations, extensions, modification, renovation or conversion of an existing facility shall be submitted to the Department for review and approval prior to construction.
- 16.3 Provisions shall be made for all of the areas listed below, some of which may be multipurpose in order to provide the following:
- a) at least one (1) examining room with provisions that each examining room include hand-washing facilities that include a sink and running water, and that each examining room is private such that conversations cannot be overheard;
 - b) a counseling room that is private such that conversations cannot be overheard;
 - c) a bathroom with hand-washing facilities;
 - d) office and administrative space where staff can work privately with records;
 - e) secure areas for the protection of medical records, pharmaceuticals, and supplies;
 - f) waiting room area.
- 16.4 The school-based health center building shall also conform with the following provisions:
- a) fire protection standards that meet local codes;
 - b) water and waste disposal systems conforming with local codes, Narragansett Bay Commission and federal OSHA requirements;
 - c) separate telephone lines and an answering machine telling students how to obtain emergency services after hours;
 - d) adequate lighting;
 - e) proper ventilation;
 - f) provisions for clients with special needs, as appropriate.

Section 17.0 ***Environmental Maintenance***

- 17.1 The school-based health center shall be maintained and equipped to provide a sanitary, safe and comfortable environment with all furnishings in good repair, and the premises shall be kept free of hazards.
- 17.2 Appropriate equipment and supplies to clean the school-based health center shall be maintained in a safe, sanitary condition.
- 17.3 Hazardous cleaning solutions, compounds and substances shall be labeled, stored in a safe place and kept in an enclosed section separate from other cleaning materials.

Waste Disposal

Medical Waste:

- 17.4 Medical waste, as defined in the *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management & Disposal of Regulated Medical Waste in Rhode Island (DEM-DAH-MW-01-92)* of reference 9 shall be managed in accordance with the provisions of the aforementioned regulations.

Other Waste:

- 17.5 Wastes which are not classified as medical waste, hazardous wastes or which are not otherwise regulated by law or rule may be disposed in dumpsters or load packers.

Section 18.0 ***Disaster Preparedness***

- 18.1 Each school-based health center shall develop and maintain a written disaster preparedness plan that shall include plans and procedures to be followed in case of fire and/or other emergencies. This disaster preparedness plan shall be coordinated with the school's plan for fire and/or other emergencies.
- 18.2 Emergency steps of action shall be clearly outlined and posted in conspicuous locations throughout the school-based health center.
- 18.3 Simulated drills testing the effectiveness of the plan shall be conducted for all personnel at least twice a year. Written reports and evaluation of all drills shall be maintained by the school-based health center.

Section 19.0 ***Fire Safety***

- 19.1 Each school-based health center shall meet the requirements of reference 7 pertaining to fire and safety.

PART V *PRACTICES AND PROCEDURES, CONFIDENTIALITY AND SEVERABILITY*

Section 20.0 *Variance Procedures*

- 20.1 The licensing agency 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 and/or health and safety of patients.
- 20.2 A request for a variance shall be filed by an applicant in writing, setting forth in detail the basis upon which the request is made.
 - 20.2.1 Upon the filing of each request for variance with the licensing agency, and within a reasonable time thereafter, the licensing agency shall notify the applicant by certified mail of its approval or in the case of a denial, a hearing date, time and place may be scheduled if the facility appeals the denial and in accordance with the provisions of section 22.0 herein.

Section 21.0 *Deficiencies and Plans of Correction*

- 21.1 The licensing agency shall notify the governing body or other legal authority of a school-based health center of violations of individual standards through a notice of deficiencies which shall be forwarded to the school-based health center within fifteen (15) days of inspection of the school-based health center 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.
- 21.2 A school-based health center which received a notice of deficiencies must submit a plan of correction to the licensing agency within fifteen (15) days of the date of the notice of deficiencies. The plan of correction shall detail any requests for variances as well as document the reasons therefor.
- 21.3 The licensing agency will be required to approve or reject the plan of correction submitted by a school-based health center in accordance with section 21.2 above within fifteen (15) days of receipt of the plan of correction.
- 21.4 If the licensing agency rejects the plan of correction, or if the school-based health center does not provide a plan of correction within the fifteen (15) day period stipulated in section 21.3 above, or if a school-based health center whose plan of correction has been approved by the licensing agency fails to execute its plan within a reasonable time, the licensing agency may invoke the sanctions enumerated in section 6.0 herein. If the school-based health center is aggrieved by the action of the licensing agency, the school-based health center may appeal the decision and request a hearing in accordance with Chapter 42-35 of the General Laws.
- 21.5 The notice of the hearing to be given by the Department of Health shall comply in all respects with the provisions of Chapter 42-35. The hearing shall in all respects comply with the provisions therein.

Section 22.0 ***Rules Governing Practices and Procedures***

- 22.1 All hearings and reviews required under the provisions of Chapter 23-17 of the General Laws of Rhode Island, 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 10 herein.

Section 23.0 ***Confidentiality***

- 23.1 Disclosure of any health care information relating to individuals shall be subject to the provisions of the Confidentiality Act of reference 11 and other relevant statutory and federal requirements.

Section 24.0 ***Severability***

- 24.1 If any provision of the rules and regulations herein or the application thereof to any facility or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

October 9, 2001

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PART VI *REFERENCES*

1. "Licensing of Health Care Facilities," Chapter 23-17 of the General Laws of Rhode Island, as amended.
2. "Administrative Procedures Act," Chapter 42-35 of the General Laws of Rhode Island, as amended.
3. "Department of Health," Chapter 23-1 of the General Laws of Rhode Island, as amended.
4. "Uniform Controlled Substances Act," Chapter 21-28 of the General Laws of Rhode Island, as amended.
5. "Rhode Island Food, Drugs and Cosmetics Act," Chapter 21-31 of the General Laws of Rhode Island, as amended.
6. *Rules and Regulations Governing Hypodermic Needles, Syringes and Other Such Instruments (R21-28-CS-4)*, Rhode Island Department of Health, February 2001 and subsequent amendments thereto.
7. Rhode Island Fire Safety Code, Chapter 23-28.1 of the Rhode Island General Laws, as amended.
8. Rhode Island State Building Code, Chapter 23-27-3 of the Rhode Island General Laws, as amended.
9. *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste in Rhode Island (DEM-DAH-MW-01-92)*, as amended, Rhode Island Department of Environmental Management.
10. *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, October 2000 and subsequent amendments thereto.
11. "Confidentiality of Health Care Information Act," Chapter 5-37.3 of the General Laws of Rhode Island, as amended.
12. *Rules and Regulations Pertaining to the Reporting of Communicable, Environmental and Occupational Diseases (R23-5-6, 10, 11, 23-24.6-CD/ERD and R23-24.5 ASB)*, Rhode Island Department of Health, April 1996 and subsequent amendments thereto.
13. *Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers and Distributors (R5-19-PHAR)*, Rhode Island Department of Health, April 2001 and subsequent amendments thereto.
14. "Pharmacy", Chapter 5-19 of the General Laws of Rhode Island, as amended.
15. "Clinical Laboratory *Improvement* Amendments of 1988." Department of Health and Human Services, Public Health Service: 42 *Code of Federal Regulations*, Part 493 (February 1992), pp. 7146--end.

16. *Rhode Island Guidelines for School-based Health Centers*, developed by the Rhode Island School-based Health Center Network, July 1998, available online at: www.gwu.edu/Emtg/sr/states/RI/RI-Guidelines.htm
17. "Laboratories", Chapter 23-16.2 of the Rhode Island General Laws, as amended.
18. "Clinical Laboratory Science Practice", Chapter 23-16.3 of the Rhode Island General Laws, as amended.
19. *Rules and Regulations for Licensing Clinical Laboratories and Stations (R23-16.2-C&S/LAB)*, Rhode Island Department of Health, November 2000 and subsequent amendments thereto.
20. *Rules and Regulations for the Licensure of Clinical Laboratory Science Practitioners (R23-16.3-CLS)*, Rhode Island Department of Health, June 1999 and subsequent amendments thereto.
21. *Rules and Regulations for the Licensing of Organized Ambulatory Care Facilities (R23-17-OACF)*, Rhode Island Department of Health, January 2000 and subsequent amendments thereto.
22. *Rules and Regulations Governing the Disposal of Legend Drugs (R21-31-LEG)*, Rhode Island Department of Health, March 1998 and subsequent amendments thereto.
23. *Rules and Regulations for School Health Programs (R16-21-SCHO)*, Rhode Island Departments of Health and Education, December 2000 and subsequent amendments thereto.