

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

### **CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION**

#### **SUBCHAPTER 10 – FACILITY REGULATION**

##### **PART 9 - Licensing of Freestanding Emergency Care Facilities**

### **9.1 Authority**

These regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws § 23-17-10, as amended, and are established for the purpose of adopting minimal standards for the licensing of freestanding emergency care facilities in this state.

### **9.2 Incorporated Materials**

- A. These regulations hereby adopt and incorporate the following by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations:
  - 1. NFPA 56A: Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems. National Fire Protection Association, 1975.

### **9.3 Definitions**

- A. "Freestanding Emergency Care Facility" hereinafter referred to as FECF, means an establishment, place or facility which may be a public or private organization, structurally distinct and separate from a hospital, staffed, equipped and operated to provide prompt emergency medical care as defined herein.
- B. "Emergency Medical Care" means services provided for a medical condition that is manifested by symptoms of sufficient severity that, in the absence of immediate medical attention, could result in placing health in jeopardy, serious impairment to bodily functions, serious dysfunction of any bodily organ or part, or development or continuance of severe pain.
- C. "Director" means the Director of the Rhode Island Department of Health.
- D. "Licensing Agency" means the Rhode Island Department of Health.
- E. "Person" means any individual, trust or state, partnership, corporation (including associations, joint stock companies) state, or political subdivisions or instrumentality of the state.

- F. "Physician" means an individual licensed under the provisions of R.I. Gen. Laws Chapter 5-37, to practice medicine or osteopathy in this state.
- G. "Change in owner" means:
1. In the case of an FECF which is a partnership, the removal, addition or substitution of a partner which results in a new partner acquiring a controlling interest in such partnership;
  2. In the case of an FECF which is an unincorporated solo proprietorship, the transfer of the title and property to another person;
  3. In the case of an FECF which is a corporation;
    - a. A sale, lease, exchange or other disposition of all, or substantially all of the property and assets of the corporation; or
    - b. A merger of the corporation into another corporation; or
    - c. The consolidation of two or more corporations, resulting in the creation of a new corporation; or
    - d. In the case of an FECF which is a business corporation, any transfer of corporate stock which results in a new person acquiring a controlling interest in such corporation; or
    - e. In the case of an FECF facility which is a non-business corporation, any change in membership which results in a new person acquiring a controlling vote in such corporation.
- H. "Change in operator" means a transfer by the governing body or operator of an FECF to any other person (excluding delegations of authority to the medical or administrative staff of the facility) of the governing body's authority to:
1. Hire or fire the chief executive officer of the FECF;
  2. Maintain and control the books and records of FECF;
  3. Dispose of assets and incur liabilities on behalf of the FECF; or
  4. Adopt and enforce policies regarding operation of the FECF.
  5. This definition is not applicable to circumstances wherein the governing body of an FECF retains the immediate authority and jurisdiction over the activities enumerated above.
- I. "Equity" means non-debt funds contributed towards the capital costs related to an initial licensure or change in owner or change in operator of a freestanding emergency care facility which funds are free and clear of any repayment or liens against the

assets of the proposed owner and/or licensee and that result in a like reduction in the portion of the capital cost that is required to be financed or mortgaged.

## **9.4 Licensing Procedures**

### **9.4.1 General Requirements for Licensure**

- A. No person acting severally or jointly with any other person, shall establish, conduct or maintain a FECF in this state without a license in accordance with the requirements of R.I. Gen. Laws §§ 23-17-4 and 23-15-4, and shall meet the requirements of the rules and regulations herein.
- B. No person or facility shall represent itself as a Freestanding Emergency Care Facility or except in the case of licensed hospitals, shall use the term "emergency" in its title, advertising, publications or other form of communication, unless licensed as a freestanding emergency care facility in accordance with the provisions herein.
- C. A facility licensed as a Freestanding Emergency Care Facility must include in a prominent manner in all its advertising, publications, signs or other forms of communication the following:
  - 1. The term "freestanding," to distinguish the emergency care facility from that of a hospital emergency care service of Rules and Regulations for Licensing of Hospitals; and
  - 2. Days and hours of the facility's operation.
- D. Pursuant to R.I. Gen. Laws § 23-17-26, a freestanding emergency care facility shall provide to every person prompt lifesaving medical care treatment in an emergency without discrimination on account of economic status or source of payment and without delaying treatment for the purpose of prior discussion of source of payment unless such delay can be imposed without material risk to the health of the person.

### **9.4.2 Application for License, Initial License, or Changes in Owner, Operator, or Lessee**

- A. Application for a license to conduct, maintain or operate, a FECF 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 R.I. Gen. Laws Chapter 23-17 and the rules and regulations herein.
- B. A notarized listing of names and addresses of direct and indirect owners 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 any mortgage, deed or trust, note or other obligation secured (in whole or in part) by the FECF or any of the property or assets of the FECF. The list shall also include all officers, directors and other persons or any

subsidiary corporation owning stock, if the FECF is organized as a corporation, and all partners if the FECF is organized as a partnership.

- C. Application for initial licensure or change in owner, operator, or lessee of an FECF shall be made on forms provided by the licensing agency and shall contain but not be limited to information pertinent to the statutory purpose expressed in R.I. Gen. Laws § 23-17-3 or the considerations enumerated in § 9.4.3(E) of this Part. Twenty-five (25) copies of such applications are required to be provided.
  - 1. Each application filed pursuant the provisions of this section shall be accompanied by a non-returnable, non-refundable application fee, as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

#### **9.4.3 Issuance and Renewal of License**

- A. 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 R.I. Gen. Laws Chapter 23-17 and 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 subject to inspection and approval by the licensing agency.
- B. 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.
- C. Any initial license or any change in owner, operator, or lessee of a licensed FECF shall require prior review by the Health Services Council and approval of the licensing agency as provided in §§ 9.4.3(D) and (E) of this Part, or for expedited reviews conducted pursuant to §§ 9.4.3(H) and (I) of this Part, as a condition precedent to the transfer, assignment, or issuance of a new license.
- D. Except for expedited reviews conducted pursuant to §§ 9.4.3(H) and (I) of this Part, reviews of applications for initial licensure or for changes in the owner, operator, or lessee of licensed FECF shall be conducted according to the following procedures:
  - 1. Within ten (10) working days of receipt, in acceptable form, of an application for initial licensure or for a license in connection with a change in the owner, operator or lessee of an existing FECF, the licensing agency will notify and afford the public thirty (30) days to comment on such application.
  - 2. The decision of the licensing agency will be rendered within ninety (90) days from acceptance of the application.
- E. Except as otherwise provided in R.I. Gen. Laws Chapter 23-17, a review by the Health Services Council of an application for an initial license or for a license in the case of a proposed change in the owner, operator, or lessee of a licensed Freestanding Emergency Care Facility may not be made subject to any criterion unless the criterion directly relates to the statutory purpose expressed in R.I. Gen. Laws § 23-17-3. In

conducting reviews of such applications the Health Services Council shall specifically consider and it shall be the applicant's burden of proof to demonstrate:

1. The character, commitment, competence, and standing in the community of the proposed owners, operators, or directors of the FECF as evidenced by:
  - a. In cases where the proposed owners, operators, or directors of the health care facility currently own, operate, or direct a health care facility, or in the past five years owned, operated or directed a health care facility, whether within or outside Rhode Island, the demonstrated commitment and record of that (those) person(s):
    - (1) In providing safe and adequate treatment to the individuals receiving the health care facility's services;
    - (2) In encouraging, promoting and effecting quality improvement in all aspects of health care facility services; and
    - (3) In providing appropriate access to health care facility services;
  - b. A complete disclosure of all individuals and entities comprising the applicant; and
  - c. The applicant's proposed and demonstrated financial commitment to the health care facility;
2. The extent to which the facility will provide or will continue without material effect on its viability at the time of change of owner, operator, or lessee to provide safe and adequate treatment for individuals receiving the FECF services as evidenced by:
  - a. The immediate and long term financial feasibility of the proposed financing plan;
    - (1) The proposed amount and sources of owner's equity to be provided by the applicant;
    - (2) The proposed financial plan for operating and capital expenses and income for the period immediately prior to, during and after the implementation of the change in owner, operator or lessee of the health care facility;
    - (3) The relative availability of funds for capital and operating needs;
    - (4) The applicant's demonstrated financial capability;
    - (5) Such other financial indicators as may be requested by the state agency;

3. The extent to which the facility will provide or will continue to provide safe and adequate treatment for individuals receiving the FECF services and the extent to which the facility will encourage quality improvement in all aspects of the operation of the health care facility as evidenced by:
    - a. The credibility and demonstrated or potential effectiveness of the applicant's proposed quality assurance programs;
  4. The extent to which the facility will provide or will continue to provide appropriate access with respect to traditionally underserved populations as evidenced by:
    - a. In cases where the proposed owners, operators, or directors of the health care facility currently own, operate, or direct a health care facility, or in the past five years owned, operated or directed a health care facility, both within and outside of Rhode Island, the demonstrated record of that person(s) with respect to access of traditionally underserved populations to its health care facilities; and
    - b. The proposed immediate and long term plans of the applicant to ensure adequate and appropriate access to the programs and health care services to be provided by the health care facility.
  5. In consideration of the proposed continuation or termination of emergency, primary and/or other core health care services by the FECF:
    - a. The effect(s) of such continuation or termination on the provision of access to safe and adequate treatment of individuals, including but not limited to traditionally underserved populations.
  6. And in cases where the application involves a merger, consolidation or otherwise legal affiliation of two or more health care facilities, the proposed immediate and long term plans of such health care facilities with respect to the health care programs to be offered and health care services to be provided by such health care facilities as a result of the merger, consolidation or otherwise legal affiliation.
- F. Subsequent to reviews conducted under §§ 9.4.3(C), (D), (G), and (H) of this Part, the issuance of a license by the licensing agency may be made subject to any condition, provided that no condition may be made unless it directly relates to the statutory purpose expressed in R.I. Gen. Laws § 23-17-3, or to the review criteria set forth in § 9.4.3(E) of this Part. This shall not limit the authority of the licensing agency to require correction of conditions or defects which existed prior to the proposed change of owner, operator, or lessee and of which notice has been given to the FECF by the licensing agency.
- G. A license issued hereunder shall be the property of the state and loaned to such licensee and it shall be kept posted in a conspicuous place on the licensed premises.

- H. Applicants for initial licensure may, at the sole discretion of the licensing agency, be reviewed under expedited review procedures established in § 9.4.3(I) of this Part if the licensing agency determines:
1. That the legal entity seeking licensure is the licensee for one or more health care facilities licensed in Rhode Island pursuant to the provisions of R.I. Gen. Laws Chapter 23-17 whose records of compliance with licensure standards and requirements are deemed by the licensing agency to demonstrate the legal entity's ability and commitment to provide quality health services; and
  2. That the licensure application demonstrates complete and satisfactory compliance with the review criteria set forth in set forth in § 9.4.3(E) of this Part.
- I. Expedited reviews of applications for initial licensure of freestanding emergency care facilities shall be conducted according to the following procedures:
1. Within ten (10) working days of receipt, in acceptable form, of an application for initial licensure the licensing agency will determine if such application will be granted expedited review and the licensing agency will notify the public of the licensing agency's initial assessment of the application materials with respect to the review criteria in § 9.4.3(E) of this Part as well as the licensing agency's intent to afford the application expedited review. At the same time the licensing agency will afford the public a twenty (20) day period during which the public may review and comment on the application and the licensing agency's initial assessment of the application materials and the proposal to afford the application expedited review.
  2. Written objections from affected parties directed to the processing under the expedited procedures and/or the satisfaction of the review criteria shall be accepted during the twenty (20) day comment period. Objections must provide clear, substantial and unequivocal rationale as to why the application does not satisfy the review criteria and/or why the application ought not to be processed under the expedited review mechanism. The licensing agency may propose a preliminary report on such application provided such proposed report incorporates findings relative to the review criteria set forth in § 9.4.3(E) of this Part. The Health Services Council may consider such proposed report and may provide its advisory to the Director of Health by adopting such report in amended or unamended form. The Health Services Council, however, is not bound to recommend to the Director that the application be process under the provisions for expedited review as delineated in and §§ 9.4.3(H) and (I) of this Part. The Health Services Council shall take under advisement all objections both to the merits of the application and to the proposed expedited processing of the proposed application and shall make a recommendation to the Director regarding each. Should the Health Services Council not recommend to the Director that the application be processed under expedited review procedures as initially proposed, such application may continue to be processed consistent with the time frames and procedures for applications not recommended for expedited review. If expedited review is not granted, then the comment period may be forthwith extended consistent with the time frames in § 9.4.3(D) for

applications not proposed for expedited review. The Director, with the advice of the Health Services Council, shall make the final decision either to grant or to deny expedited review and shall make the final decision to grant or to deny the application on the merits within the expedited review mechanism and time frames.

#### **9.4.4 Inspections**

- A. The licensing agency shall make or cause to be made such inspections and investigations, as it deems necessary, in accordance with R.I. Gen. Laws § 23-17-10 and the rules and regulations herein.
- B. Every FECF shall be given prompt notice by the licensing agency of any deficiencies reported as a result of an inspection or investigation.

#### **9.4.5 Denial, Suspension, Revocation of License or Curtailment of Activities**

- A. The licensing agency is authorized to deny, suspend or revoke the license of or to curtail the activities of any FECF which:
  - 1. Has failed to comply with the rules and regulations pertaining to the licensing of FECFs; and
  - 2. Has failed to comply with the provisions of R.I. Gen. Laws Chapter 23-17.
- B. Reports of deficiencies noted in inspections conducted in accordance with § 9.4.4 of this Part 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 FECF.
- C. Whenever an action shall be proposed to deny, suspend or revoke the license of or to curtail the activities of a FECF, the licensing agency shall notify the FECF 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 R.I. Gen. Laws §§ 23-17-8 and 42-35-9 and in accordance with the provisions of § 9.8.2 of this Part.
  - 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 R.I. Gen. Laws §§ 23-1-21 and 42-35-14(c).
- D. The appropriate state and federal 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.

### **9.5 Organization and Management**

#### **9.5.1 Governing Body and Management**



- A. Each facility shall have an organized governing body or equivalent legal authority ultimately responsible for:
  - 1. The management and control of the operation;
  - 2. The assurance of the quality of care and services;
  - 3. The compliance with all federal, state and local laws and regulations; and
  - 4. Other relevant health and safety requirements including the rules and regulations herein.
- B. The governing body or equivalent legal authority shall provide appropriate personnel, physical resources, and equipment for the delivery of safe and effective emergency medical care.
- C. The governing body or equivalent legal authority shall designate;
  - 1. An administrator who shall be responsible for the management and operation of the facility; and
  - 2. A medical director to ensure achievement and maintenance of quality standards of professional practice.
- D. The governing body or equivalent legal authority shall adopt and maintain by-laws defining responsibilities for the operation and performance of the organization, identifying purposes and means of fulfilling each. In addition, the governing body shall establish administrative policies pertaining to no less than the following:
  - 1. Qualifications and responsibilities of the medical director and administrator;
  - 2. The plan of the governing body for the implementation of long- and short-range plans as prescribed by the Director in accordance with R.I. Gen. Laws Chapter 23-17; and
  - 3. Such other matters as may be relevant to the organization and operation of the FECF.
- E. The governing body or other legal authority shall be responsible through the organization's by-laws, policies, or other mechanism to determine the qualifications of physicians and other professionals as required herein, considering such factors as education, training, experience, board certification, eligibility to sit for examination of specialty board, evidence of current professional practice and licensure as may be required by law or regulation, the relevant qualifications required in § 9.5.4 of this Part and such other relevant factors as may be deemed necessary.

#### **9.5.2 Administrator**

- A. The governing body or equivalent legal authority shall appoint an administrator (who may also be the medical director), who shall be operationally responsible for:

1. The management and operation of the FECF;
2. The compliance with policies, rules and regulations and statutory provisions pertaining to the health and safety of patients;
3. Serving as liaison between the governing body and the staff; and
4. The planning, organizing and directing of such other activities as may be delegated by the governing body.

#### **9.5.3 Medical Director**

- A. The FECF shall have a physician licensed in this state, who shall serve as Medical Director and be responsible for no less than the following:
  1. Coordination and supervision of emergency medical care services;
  2. The achievement and maintenance of quality assurances of professional practice through a mechanism of peer review; and
  3. The establishment of policies and procedures for emergency medical care services and other related emergency health care services.

#### **9.5.4 Personnel**

- A. Each FECF shall be staffed by a licensed physician(s) who has certification, as defined in § 9.5.4(B) of this Part, and full licensure and who shall be present within the facility during the hours of operation.
- B. At least one physician on duty during the hours of operation shall be:
  1. Certified or Board Eligible by the American Board of Emergency Medicine or the American Board of Osteopathic Emergency Medicine; OR
  2. Certified or Board Eligible to sit for the examination of one of the following boards: Internal Medicine, Family Practice, or Surgery; AND must hold a certificate from the following approved programs: Advanced Coronary Life Support; Advanced Trauma Life Support; Pediatric Advanced Life Support.
- C. No less than one licensed registered nurse who has training and experience in emergency care shall be on duty during the hours of operation.
- D. Every freestanding emergency care facility shall have a person qualified by training and experience on the premises during the hours of operation who shall determine the nature, level and urgency of care required of all persons seeking treatment and to categorize them accordingly, assuring that serious cases are accorded priority treatment. If such person is a non-physician, he or she shall serve under the supervision of the physician-in-charge and in accordance with policies and procedures acceptable to the governing body or other legal authority.

- E. Each FECF shall establish a protocol to govern the interpretation by a radiologist, of diagnostic images produced by x-ray or other modalities, including a procedure for the prompt communication of the radiologist's interpretation to the facility.
- F. A health care facility shall require all persons, including students, who examine, observe, or treat a patient or resident 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.
- G. Health Screening

Upon hire and prior to delivering services, a pre-employment health screening shall be required for each individual who has or may have direct contact with a patient in the freestanding emergency care facility. Such health screening shall be conducted in accordance with the *Rules and Regulations Pertaining to Immunization, Testing, and Health Screening for Health Care Workers* promulgated by the Department of Health.

#### **9.5.5 Rights of Patients**

- A. Each FECF shall observe the standards of R.I. Gen. Laws § 23-17-19.1 with respect to each patient.
- B. Each facility shall display in a conspicuous place in the licensed FECF a copy of the "Rights of Patients."

#### **9.5.6 Disaster Preparedness**

- A. Each FECF shall develop and maintain a written disaster preparedness plan which shall include specific provisions and procedures for the emergency medical care of patients in the event of an external disaster or internal functional failure of equipment.
  - 1. Such plan shall be developed in cooperation with appropriate state and local agencies.
  - 2. A copy of the plan shall be submitted to the licensing agency.

#### **9.5.7 Administrative Records**

- A. Each FECF shall maintain such administrative records as may be deemed necessary by the licensing agency. These records shall include but not be limited to:
  - 1. Monthly statistical summary of numbers of patients seen appropriately classified as to the nature of the conditions;
  - 2. A copy of the long and short range plans;
  - 3. An administrative record of log book containing pertinent data such as patient's name, record number, age, sex, date and time of arrival and discharge, type of care, diagnosis and disposition, and provider of service; and

4. A record of all transfers to other health facilities.

### **9.5.8 Uniform Reporting System**

- A. Each FECF shall establish and maintain records and data in such a manner as to make uniform the system of periodic reporting. The manner in which the requirements of this regulation may be met shall be prescribed from time to time in directives promulgated by the Director.
- B. Each FECF shall make available for review upon request of the licensing agency detailed statistical data pertaining to its operations, services, and facility. Such reports and data shall be made at such intervals and by such dates as determined by the Director.
- C. The licensing agency is authorized to make the reported data available to any state or federal agency concerned with or exercising jurisdiction over the FECF.
- D. The directives promulgated by the Director pursuant to these regulations shall be sent to each FECF to which they apply. Such directives shall prescribe the form and manner in which the statistical data required shall be furnished to the licensing agency.

## **9.6 Emergency Care Services**

### **9.6.1 Management Services**

- A. Each FECF shall provide emergency care service with professional and ancillary staff to ensure that all persons treated are released or transferred within a reasonable and appropriate length of time. No patient shall be held overnight.
- B. Policies and procedures pertaining to the provision of emergency medical care services and supported by appropriate manuals and reference material shall be established by the Medical Director and approved by the governing body. Such policies and procedures shall pertain to no less than the following:
  1. The responsibility of the medical staff for emergency patient care;
  2. Medical circumstances under which definitive care cannot be provided and procedures for referral;
  3. Procedures that may and may not be performed in the FECF;
  4. Procurement, storage and administration of drugs and medications in accordance with R.I. Gen. Laws Chapters 21-28 and 21-31;
  5. Disposal of hypodermic needles, syringes and instruments in accordance with the requirements of the *Rules and Regulations for Governing Hypodermic Needles, Syringes and Other Such Instruments*;

6. Handling of persons who are emotionally ill, under the influence of drugs or alcohol, dead on arrival, or other categories of special care;
7. Procedures for early transfer of severely ill or injured to hospital;
8. Written instructions to be given to the patient to assure continuity of care;
9. Notification of patient's personal physician and transmission of relevant reports per written consent of patient;
10. Disclosure of patient information in accordance with federal and state law;
11. Location and storage of supplies and special equipment; and
12. Pursuant to R.I. Gen. Laws § 23-17-26 the provision of prompt emergency medical care for every person in an emergency without discrimination on account of economic status or source of payment and without delaying treatment for the purpose of prior discussion of source of payment unless such delay can be imposed without material risk to the health of the person.

#### **9.6.2 Supportive Services**

- A. Each FECF shall provide on the premises during hours of operation, the following:
  1. Clinical laboratory services must be provided on the premises of the FECF subject to the provisions of R.I. Gen. Laws § 23-16.2-3; and
  2. Diagnostic radiology services which meet the requirements of § 9.5.4(D) of this Part and *Rules and Regulations for the Control of Radiation*.
    - a. Mammography
      - (1) All aspects of mammography services shall be managed in accordance with the provisions of the Rules and Regulations Related to Quality Assurance Standards for Mammography of the Rhode Island Department of Health.

#### **9.6.3 Medical Records**

- A. A medical record shall be maintained on every patient provided emergency care.
- B. For each visit to the emergency facility the medical record shall contain documentation relating to the following:
  1. Patient identification (name, address, age and sex);
  2. Time and means of arrival;
  3. Pertinent medical history of the illness or injury and physical findings;
  4. Emergency care given before arrival;

5. Diagnostic and therapeutic orders;
  6. Reports of procedures, tests and findings;
  7. Diagnostic impression;
  8. Conclusion at termination of evaluation/treatment, including final disposition of patient's condition on discharge or transfer and any instructions given for follow-up care;
  9. A patient's leaving against medical advice; and
  10. Origin of incoming patient and destination of patient at discharge.
- C. All medical records either original 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.

#### **9.6.4 Medical Equipment and Supplies**

- A. No less than the following special supplies and equipment shall be available and located within the emergency service area:
1. Oxygen;
  2. Electrocardiograph;
  3. Cardiac monitor and defibrillator with battery pack;
  4. Pacemaker insertion set-up; external pacemaker
  5. Central venous catheter set-up;
  6. Gastric lavage equipment;
  7. Suction device;
  8. Intravenous fluids and administration devices;
  9. Endotracheal intubation, and tracheostomy trays; and
  10. Emergency obstetrical pack.
- B. 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.
- C. The emergency drug cart(s) and adjunctive emergency equipment shall be checked by an appropriate, designated individual as per written procedures after each use to assure that all items required for immediate availability are actually contained in the cart and are in usable condition.

### **9.6.5 Discharge Planning: Substance Use Disorder, Opioid Use Disorder, and Chronic Addiction**

#### **A. Evaluation**

1. The FECF must administer a standardized evaluation to all patients with an indication of substance use disorder, opioid use disorder, or chronic addiction. If the patient declines evaluation this must be documented in the medical record. If the patient is determined after an evaluation to have a substance use disorder or opioid use disorder then appropriate medical services will be offered to the patient. Services offered to the patient shall include, but are not limited to clinically appropriate inpatient and outpatient services.
2. FECFs shall have a written policy for evaluation available upon request, inspection, or related to investigation of complaint.

#### **B. Laboratory Screening**

For every patient presenting to the FECF with an opioid overdose, the FECF must order a laboratory screening to determine what substance(s) caused the overdose. If the patient refuses the laboratory screening, the FECF is still in compliance as long as the test was ordered. If the patient declines screening this must be documented in the medical record.

#### **C. Education**

1. The FECF must educate all patients who are prescribed opioids on the risks and benefits of prescribed opioids as well as safe storage and disposal in accordance with the section titled "Patient Education/Consent" in Rules and Regulations for Pain Management, Opioid Use and the Registration of Distributors of Controlled Substances in Rhode Island.
2. When patients present with indications of illicit drug use (including but not limited to the use of illegal substances or the use of diverted prescription drugs), the FECF must educate such patients on illicit drug use, including evidence-based harm reduction strategies such as proper syringe disposal and how to obtain non-prescription syringes.
3. If the Department issues a health advisory (either statewide or for the particular geographic area in which the FECF is contained) regarding an increase in overdoses or overdose deaths, the FECF is required to educate illicit drug use and diverted overdose patients with evidence-based harm reduction strategies.

#### **D. Naloxone**

1. The FECF must have a written policy that outlines when a prescriber should dispense or prescribe naloxone to patients. This policy must include a list of conditions that would prompt the dispensing or prescribing of naloxone. A sample list of conditions is found in the Department's guidance document

“Levels of Care for Emergency Departments and Hospitals for Treating Overdose and Opioid Use Disorder.”

2. For patients meeting the conditions set out in the FECF’s policy, a prescriber must dispense or prescribe naloxone.
3. For those patients who are dispensed or prescribed naloxone, education regarding how to administer naloxone shall be provided to patients prior to discharge.
4. FECFs shall have a written policy for naloxone available upon request, inspection or related to investigation of complaint.

E. Peer Recovery

1. The FECF shall offer all patients the opportunity to speak with a peer recovery support specialist, if those patients:
  - a. are diagnosed with substance use disorder or opioid use disorder using then evaluation protocol required by § 9.6.5(A) of this Part, or
  - b. are treated for an opioid overdose.
2. To fulfill the above requirement, at a minimum the FECF must inform the patient that the FECF will contact a peer recovery support specialist on the patient’s behalf.
3. FECFs shall have a written policy for peer recovery available upon request, inspection or related to investigation of complaint.

F. Treatment Services

1. The FECF shall provide information to patients about appropriate inpatient and outpatient services, including but not limited to medication assisted treatment and biopsychosocial treatment, if those patients:
  - a. are diagnosed with substance use disorder or opioid use disorder using then evaluation protocol required by § 9.6.5(A) of this Part, or
  - b. are treated for an opioid overdose.
2. FECFs must make a good faith effort to assist the patient in obtaining an appointment with a qualified licensed professional. To fulfill the above requirement, at a minimum the FECF must present a list of names, addresses, and phone numbers of appropriate inpatient and outpatient services. This list shall include information about medication-assisted treatment. If the patient declines to receive information or assistance about treatment services this must be documented in the medical record.



3. FECFs shall have a written policy for treatment services available upon request, inspection or related to investigation of complaint.

G. Notification of Emergency Contact

1. Prior to discharge and with patient consent, the FECF will attempt to notify the patient's emergency contacts and peer recovery support specialist (if any of these individuals have been identified) pursuant to R.I. Gen. Laws § 23-17.26-3(iii). If the patient declines notification of an emergency contact or recovery coach, the treating provider will document this refusal in the medical record.
2. FECFs shall have a written policy for notification of emergency contact available upon request, inspection, or related to investigation of complaint.

H. Right to Refuse Treatment

Pursuant to R.I. Gen. Laws § 23-17-19.1(4), a patient has the right to refuse any screening, treatment, or service described in §§ 9.6.5(A) through (G) of this Part.

I. Overdose Reporting

FECFs shall comply with the reporting requirements found in Rules and Regulations Pertaining to Opioid Overdose Prevention and Reporting.

## **9.7 Physical Plant and Equipment**

### **9.7.1 New Construction**

- A. All new construction shall be subject to the provisions of *NFPA 56A: Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems*, incorporated above at § 9.2(A)(1), and R.I. Gen. Laws Chapters 23-28.1 and 23-27.3.
- B. In addition, any other applicable state and local laws, codes and regulations shall apply. (Where there is a difference between codes, the code having the more stringent standard shall apply.)

### **9.7.2 Physical Facility**

- A. The FECF shall be designed and equipped to facilitate the reception, examination, treatment and observation of patients, in accordance with prevailing standards, safeguarding the dignity and privacy of patients and their families to the extent consistent with providing emergency medical care and with efficient administration.
- B. In existing facilities, unless a variance is granted by the licensing agency, the same standards as specified above in § 9.7.1 of this Part for new construction shall apply.
- C. The entrance of the FECF shall be clearly identified externally and shall be accessible to emergency vehicles and pedestrian traffic. All entrance doors shall be well lighted, wide enough to accommodate patients, attendants and equipment. A ramp shall be

provided for wheelchair and stretcher patients when the use of stairs would be required otherwise.

### **9.7.3 Environmental Maintenance**

- A. The FECF 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.
- B. Written policies and procedures shall be established to assure comfortable, safe and sanitary environment and appropriate lighting throughout the facility.
- C. Appropriate equipment and supplies to clean the facility shall be maintained in a safe, sanitary condition.
- D. 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.
- E. Smoking shall be permitted only in designated areas.

### **9.7.4 Waste Disposal**

#### **A. Infectious Waste**

Infectious waste as defined in the Department of Environmental Management's Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management & Disposal of Regulated Medical Waste in Rhode Island, shall be managed in accordance with the provisions of the aforementioned regulations.

#### **B. Other Waste**

Wastes which are not classified as infectious waste, hazardous wastes, or which are not otherwise regulated bylaw or rule may be disposed in dumpsters or load packers provided the following precautions are maintained:

1. Dumpsters shall be tightly covered, leak proof, inaccessible to rodents and animals, and placed on concrete slabs preferably graded to a drain. Water supply shall be available within easy accessibility for washing down of the area. In addition, the pick-up schedule shall be maintained with more frequent pick-ups when required. The dumping site of waste materials must be in sanitary landfills approved by the Department of Environmental Management.
2. Load packers must conform to the same restrictions required for dumpsters and in addition, load packers shall be:
  - a. High enough off the ground to facilitate the cleaning of the underneath areas of the stationary equipment; and

- b. The loading section shall be constructed and maintained to prevent rubbish from blowing from said area site.

## **9.8 Practices and Procedures, Confidentiality and Severability**

### **9.8.1 Variance Procedure**

- A. The licensing agency may grant a variance either upon its own motion or upon request of the applicant from the provisions of any rules and regulation herein, if it finds in specific cases, 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.
- B. 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.
  - 1. Upon filing of each request for variance with the licensing agency and within thirty (30) days 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. Such hearing must be held in accordance with the provisions of § 9.8.2 of this Part.

### **9.8.2 Deficiencies and Plans of Correction**

- A. The licensing agency shall notify the governing body or other legal authority of a facility of violations of individual standards through a notice of deficiencies which shall be forwarded to the facility within fifteen (15) days of inspection of the facility 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 R.I. Gen. Laws § 23-1-21.
- B. A facility 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 therefore.
- C. The licensing agency will be required to approve or reject the plan of correction submitted by a facility within fifteen (15) days of receipt of the plan of correction.
- D. If the licensing agency rejects the plan of correction, or if the facility does not provide a plan of correction within the fifteen (15) day period, or if a facility 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 herein. If the facility is aggrieved by the action of the licensing agency, the facility may appeal the decision regarding sanctions and request a hearing in accordance with R.I. Gen. Laws Chapter 42-35.

### **9.8.3 Rules Governing Practices and Procedures**

All hearings and reviews required under the provisions of R.I. Gen. Laws Chapter 23-17 shall be held in accordance with the provisions of the rules and regulations promulgated by the *Rules and Regulations Pertaining to Practices and Procedures Before the Department of Health*.

#### **9.8.4 Confidentiality**

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

#### **9.8.5 Severability**

If any provision of the rules and regulations herein or the application 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.

**216-RICR-40-10-9**

**TITLE 216 - DEPARTMENT OF HEALTH**

**CHAPTER 40 - PROFESSIONAL LICENSING AND FACILITY REGULATION**

**SUBCHAPTER 10 - FACILITIES REGULATION**

**PART 9 - LICENSING OF FREESTANDING EMERGENCY CARE FACILITIES (216-RICR-40-10-9)**

Type of Filing: Refile Capabilities

**Department of State**

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Regulation Effective Date

Original Signing Date

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Department of State Initials

Department of State Date