

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

AGENCY: Governor's Commission on Disabilities

RULE IDENTIFIER: ERLID 5831 and 5797

REGULATION TITLE: ACCESS TO OPEN MEETING

RULEMAKING ACTION: Proposed Rulemaking

TYPE OF FILINGS: Consolidation and Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public notice: 11/15/17

Hearing date: 11/27/17

End of comment period: 12/04/17

SUMMARY OF PROPOSED RULE: The regulation consolidates two regulations: Chapter A. Open Meeting—Accessibility for Persons with Disabilities and Chapter P. Open Meeting Telecommunication Accommodation Waiver Requests.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by 12/04/2017 to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address:

Governor's Commission on Disabilities
John O. Pastore Center, 41 Cherry Dale Court
Cranston, RI 02920-3049

Email Address: bob.cooper@gcd.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Governor's Commission on Disabilities
John O. Pastore Center, 41 Cherry Dale Court
Cranston, RI 02920-3049

PUBLIC HEARING INFORMATION:

DATE: November 27, 2017

TIME: 5:00 p.m. – 6:00 p.m.

LOCATION: Governor's Commission on Disabilities
John O. Pastore Center, 41 Cherry Dale Court
Cranston, RI 02920-3049

The place of the public hearing is accessible to individuals who have a disability. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call **401-462-0100** or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

FOR FURTHER INFORMATION CONTACT:

ATTN: Bob Cooper, Executive Secretary
Governor's Commission on Disabilities
John O. Pastore Center, 41 Cherry Dale Court
Cranston, RI 02920-3049

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

The repeal of this regulation does not impact small business or any other entity. For full regulatory analysis or supporting documentation see agency contact person above.

Authority for This Rulemaking: R.I. Gen. Laws 42-46-13; 42-46-5(b)(3 & 4); 42-51-6; and 42-51-6.1

Regulatory Findings:

In the development of the proposed repeal consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

RHODE ISLAND AND PROVIDENCE PLANTATIONS
Executive Department
**GOVERNOR'S COMMISSION ON
DISABILITIES**

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RULES AND REGULATIONS PERTAINING TO

Chapter P. Open Meeting Telecommunication Accommodation Waiver Requests

Rule proposed on November 11, 2007
Advertised on December 19, 2007
Small Business Impact Review Completed on December 19, 2007
Public Hearing on January 15, 2008
Adopted on February 4, 2008
Effective on March 26, 2008
Amendments proposed on August 11, 2009
Public Hearing on September 14, 2009
Adopted on September 21, 2009
Effective on October 28, 2009

COMPILER'S NOTES:

Link to an endnote are ^{red super script} and ^{blue} link are [blue](#) as below, move **b** to colored text and click to open. All forms references are available on line at www.disabilities.ri.gov

- [I. STATUTORY AUTHORITY RI GL 42-46-5\(b\)\(3 & 4\).](#)
- [II. STATEMENT OF PURPOSE](#)
- [III. DEFINITION](#)
- [IV. REQUESTING AN OPEN MEETING TELECOMMUNICATIONS ACCOMMODATION WAIVER](#)
- [V. GRANTING OR REJECTING A TELECOMMUNICATIONS ACCOMMODATION WAIVER](#)
- [VI. FORMS](#)
- [VII. ENDNOTES](#)

I. STATUTORY AUTHORITY RIGL 42-46-5(b)(3 & 4).

Open Meetings- Purposes for which meeting may be closed -- Use of electronic communications -- Judicial proceedings -- Disruptive conduct. ^[1]

II. STATEMENT OF PURPOSE

To ensure that a member of a public body, who has a disability: and

(i) cannot attend meetings of that public body solely by reason of his or her disability; and

(ii) cannot otherwise participate in the meeting without the use of electronic communication or telephone communication as reasonable accommodation, may participate by use of electronic communication or telephone communication.

III. DEFINITIONS

A. "A member of that public body, who has a disability" means: a member of a public body who has a disability as defined in chapter 87 of title 42^[2].

B. "The Commission" shall mean the [Governor's Commission on Disabilities](#)^[3].

C. "Public body" is defined in RI General Law 42-46-2(3)^[4].

D. "Hearing Board" means the Governor's Commission on Disabilities' Hearing Board.

IV. REQUESTING AN OPEN MEETING TELECOMMUNICATIONS ACCOMMODATION WAIVER

A. Whenever a request for an Open Meeting Telecommunications Accommodation Waiver is made to the Commission, it shall provide the requesting party with a copy of these regulations and assist the individual in preparing an Open Meeting Telecommunications Accommodation Waiver Request GCD Form P-1.

B. The party requesting the waiver shall provide medical information:

1. Only medical information needed to document the need for the accommodation that is specifically related to limitations caused by the public body member's disability that prevent that member from attending meetings of that public body solely by reason of his or her disability.

2. The Hearing Board and its staff member shall review any medical information needed to document that the individual is "a member of that public body, who has a disability" in relation to the need to be accommodated. The Board members and staff must handle confidential medical information in accord with the RIGL 5-37.3^[5]

Confidentiality of Health Care Communications and Information Act^[5].

3. The state's rehabilitation /disability services experts may assist the Hearing Board understand the medical information provided.

4. Other Commission personnel shall not participate in the review of nor have access to the individual's medical information.

V. GRANTING OR REJECTING A TELECOMMUNICATIONS ACCOMMODATION WAIVER

A. The Hearing Board shall review the Waiver Request at its next scheduled meeting and approve or reject the request. The member of the public body may appear and testify at meeting of the Hearing Board via telecommunication devices when their request is on the agenda. Notice of the meeting shall be sent to the affected public body and the member the waiver is requested for.

B. The Hearing Board shall:

- i. Review any advice provided by the state's rehabilitation /disability services experts regarding the factors preventing the public body member's physical attendance at meetings of that public body.
- ii. Conduct a technical review of possible electronic communication or telephone communication equipment or devices that would enable that member to participate in the public body's meetings.

C. If the Hearing Board grants the waiver, the Board's staff person shall issue the waiver in writing:

- i. Send the original waiver to public body's presiding officer,
- ii. Send a copy to the requesting member; and
- iii. Place a copy of the waiver on the public record.

D. If the Hearing Board rejects the waiver request, the Board shall state its reasons for rejection in writing to the requesting member, within a week of the meeting and place a copy of the waiver rejection on the public record.

VI. FORMS

The Commission's staff shall prepare and revise the forms referenced above, as necessary.

VII. ENDNOTES

These endnotes are the text of several general laws and are provided for clarification and are not part of the regulation. They are subject to revision, as amended by the General Assembly.

[1] RIGL 42-46-5. Open Meetings - Purposes for which meeting may be closed -- Use of electronic communications -- Judicial proceedings -- Disruptive conduct. --

(a) A public body may hold a meeting closed to the public pursuant to section 42-46-4 for one or more of the following purposes:

(1) Any discussions of the job performance, character, or physical or mental health of a person or persons provided that such person or persons affected shall have been notified in advance in writing and advised that they may require that the discussion be held at an open meeting.

Failure to provide such notification shall render any action taken against the person or persons affected null and void. Before going into a closed meeting pursuant to this subsection, the public body shall state for the record that any persons to be discussed have been so notified and this statement shall be noted in the minutes of the meeting.

(2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation.

(3) Discussion regarding the matter of security including but not limited to the deployment of security personnel or devices.

(4) Any investigative proceedings regarding allegations of misconduct, either civil or criminal.

(5) Any discussions or considerations related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.

(6) Any discussions related to or concerning a prospective business or industry locating in the state of Rhode Island when an open meeting would have a detrimental effect on the interest of the public.

(7) A matter related to the question of the investment of public funds where the premature disclosure would adversely affect the public interest. Public funds shall include any investment plan or matter related thereto, including but not limited to state lottery plans for new promotions.

(8) Any executive sessions of a local school committee exclusively for the purposes (a) of conducting student disciplinary hearings or (b) of reviewing other matters which relate to the privacy of students and their records, including all hearings of the various juvenile hearing boards of any municipality; provided, however, that any affected student shall have been notified in advance in writing and advised that he or she may require that the discussion be held in an open meeting.

Failure to provide such notification shall render any action taken against the student or students affected null and void. Before going into a closed meeting pursuant to this subsection, the public body shall state for the record that any students to be discussed have been so notified and this statement shall be noted in the minutes of the meeting.

(9) Any hearings on, or discussions of, a grievance filed pursuant to a collective bargaining agreement.

(10) Any discussion of the personal finances of a prospective donor to a library.

(b) No meeting of members of a public body or use of electronic communication, including telephonic communication and telephone conferencing, shall be used to circumvent the spirit or requirements of this chapter, provided, however, these meetings and discussions are not prohibited.

(1) Provided, further however, that discussions of a public body via electronic communication, including telephonic communication and telephone conferencing, shall be permitted only to schedule a meeting.

(2) Provided, further however, that a member of a public body may participate by use of electronic communication or telephone communication while on active duty in the armed services of the United States.

(3) Provided, further however, that a member of that public body, who has a disability as defined in chapter 87 of title 42 and:

(i) cannot attend meetings of that public body solely by reason of his or her disability; and

(ii) cannot otherwise participate in the meeting without the use of electronic communication or telephone communication as reasonable accommodation, may participate by use of electronic communication or telephone communication in accordance with the process below.

(4) The governor's commission on disabilities is authorized and directed to:

(i) establish rules and regulations for determining whether a member of a public body is not otherwise able to participate in meetings of that public body without the use of electronic communication or telephone communication as a reasonable accommodation due to that member's disability;

(ii) grant a waiver that allows a member to participate by electronic communication or telephone communication only if the member's disability would prevent him/her from being physically present at the meeting location, and the use of such communication is the only reasonable accommodation; and

(iii) any waiver decisions shall be a matter of public record.

(c) This chapter shall not apply to proceedings of the judicial branch of state government or probate court or municipal court proceedings in any city or town.

(d) This chapter shall not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised.

[2]

RIGL 42-87-1. Definitions of disability.

As used in this chapter:

(1) "Disability" means, with respect to an individual:

(i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(ii) A record of such impairment; or

(iii) Being regarded as having such an impairment (as described in paragraph (4));

(iv) Includes any disability which is provided protection under the Americans with Disabilities Act, 42 U.S.C. section 12101 et seq. and federal regulations pertaining to the act 28 CFR 35 and 29 CFR 1630; and

(v) Nothing in this chapter alters the standards for determining eligibility for benefits under workers' compensation laws or under state disability benefit programs.

(2) "Regarded as having such an impairment" for purposes of paragraph (1)(iii) means:

(i) An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity.

(ii) Paragraph (1)(iii) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six (6) months or less.

(3) "Major life activities" include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. A major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(4) "Qualified individual" means:

(i) With respect to employment, a person who, with or without reasonable accommodations, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this chapter, due consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job;

(ii) With respect to the rental of property, a person with a disability who, personally or with assistance arranged by the person with a disability, is capable of performing all of the responsibilities of a tenant as contained in section 34-18-24;

(iii) With respect to any other program or activity, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or benefits, or the participation in the program or activity;

(iv) The fact that an individual has applied for, received or continues to receive private insurance or government assistance based upon his or her disability shall not be determinative as to whether the individual is qualified as defined herein, nor shall it constitute an estoppel or otherwise serve as a basis to deny the individual the protections of this chapter; and

(v) A qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(A) In general.--The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the controlled substances act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the controlled substances act or other provisions of federal law.

(B) Drugs.--The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the controlled substances act.

(5) "Substantially limits" includes:

(i) An impairment that substantially limits one major life activity but need not limit other major life activities in order to be considered a disability.

(ii) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

(iii)(A) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigation measures such as:

(I) Medication, medical supplies, equipment, or appliance, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

(II) Use of assistive technology;

(III) Reasonable accommodations or auxiliary aids or services; or

(IV) Learned behavioral or adaptive neurological modifications.

(B) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

(6) As used in subparagraph (7)(iii)(A)(I):

(i) The term "ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

(ii) The term "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

42-87-1.1. Other definitions. -- As used in this chapter:

(1) "Auxiliary aids and services" includes:

(i) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(ii) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(iii) Acquisition or modification of equipment or devices; and

(iv) Other similar services and actions.

(2) "Discrimination":

(i) Includes those acts prohibited on the basis of race by 42 U.S.C. sections 1981, 1983 and those on the basis of disability by 29 U.S.C. section 794, and those on the basis of disability by 42 U.S.C. section 12101 et seq., and those on the basis of disability by chapter 5 of title 28.

(ii) Nothing in this chapter shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability.

(3) "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(i) The nature and cost of the action needed under this chapter;

(ii) The overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(iii) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(4) "Reasonable accommodation" may include:

(i) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(ii) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(iii) Nothing in this chapter shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

(iv) An employer, state or local government agency and any person who owns, leases (or leases to), or operates a place of public accommodation, need not provide a reasonable accommodation or reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in subsection 42-87-1(1) solely under subparagraph (4) (iii).

(5) "Reasonable modifications": (i) include modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the covered entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

(ii) Nothing in this chapter shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

(iii) Any person or entity covered by section 42-87-2, need not provide a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in subsection 42-87-1(1) solely under subparagraph (iii).

(iv) Nothing in this chapter alters the provision, specifying that reasonable modifications in policies, practices, or procedures shall be required, unless a covered entity can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

(6) "Undue hardship" means:

(i) An action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (3) herein;

(ii) In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

(A) The nature and cost of the accommodation needed under this chapter;

(B) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(C) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

RIGL 42-87-1.2. Qualification standards.

A covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.

[3]

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<http://www.disabilities.ri.gov> (website)

[4]

RIGL 42-46-2(3) Open Meetings – Definitions

As used in this chapter:

(3) "Public body" means any department, agency, commission, committee, board, council, bureau, or authority or any subdivision thereof of state or municipal government or any library that at least twenty-five percent (25%) of its operational budget in the prior budget year with public funds, and shall include all authorities defined in 42-35-1(b). For purposes of this section, any political party, organization, or unit thereof meeting or conveying information and should not be considered to be a public body; provided, however, that no such meeting shall be used to circumvent the requirements of this chapter.

RIGL 42-35-1(2) Administrative Procedures - Definitions

As used in this chapter:

(2) "Authorities" includes the following: the Rhode Island industrial building authority, the Rhode Island recreational building authority, the Rhode Island economic development corporation, the Rhode Island industrial facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and mortgage finance corporation, the Rhode Island solid waste management corporation, the Rhode Island public transit authority, the Rhode Island student loan authority, the Howard development corporation, the water resources board, the Rhode Island health and educational building corporation, the Rhode Island higher education assistance authority, the Rhode Island turnpike and bridge authority, the Blackstone Valley district commission, the Narragansett Bay water quality management district commission, their successors and assigns, and any body corporate and public with the power to issue bonds and notes, which are direct, guaranteed, contingent, or moral obligations of the state, which is hereinafter created or established in this state.

[5]

5-37.3-4. Confidentiality of Health Care Communications and Information Act -- Limitations on and permitted disclosures.

(a) (1) Except as provided in subsection (4) of this section or as specifically provided by the law, a patient's confidential health care information shall not be released or transferred without the written consent of the patient or his or her authorized representative, on a consent form meeting the requirements of subsection (d) of this section. A copy of any notice used pursuant to subsection (d) of this section, and of any signed consent shall, upon request, be provided to the patient prior to his or her signing a consent form. Any and all managed care entities and managed care contractors writing policies in the state shall be prohibited from providing any information related to enrollees which is personal in nature and could reasonably lead to identification of an individual and is not essential for the compilation of statistical data related to enrollees, to any international, national, regional, or local medical information data base. This provision shall not restrict or prohibit the transfer of information to the department of health to carry out its statutory duties and responsibilities.

(2) Any person who violates the provisions of this section may be liable for actual and punitive damages.

(3) The court may award a reasonable attorney's fee at its discretion to the prevailing party in any civil action under this section.

(4) Any person who knowingly and intentionally violates the provisions of this section shall, upon conviction, be fined not more than five thousand (\$5,000) dollars for each violation, or imprisoned not more than six (6) months for each violation, or both.

(5) Any contract or agreement which purports to waive the provisions of this section shall be declared null and void as against public policy.

(b) No consent for release or transfer of confidential health care information shall be required in the following situations:

(1) To a physician, dentist, or other medical personnel who believes, in good faith, that the information is necessary for diagnosis or treatment of that individual in a medical or dental emergency;

(2) To medical and dental peer review boards, or the board of medical licensure and discipline, or board of examiners in dentistry;

- (3) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluations, actuarial, insurance underwriting, or similar studies; provided, that personnel shall not identify, directly or indirectly, any individual patient in any report of that research, audit, or evaluation, or otherwise disclose patient identities in any manner;
- (4) By a health care provider to appropriate law enforcement personnel, or to a person if the health care provider believes that person or his or her family is in danger from a patient; or to appropriate law enforcement personnel if the patient has or is attempting to obtain narcotic drugs from the health care provider illegally; or to appropriate law enforcement personnel or appropriate child protective agencies if the patient is a minor child who the health care provider believes, after providing health care services to the patient, to have been physically or psychologically abused; or to law enforcement personnel in the case of a gunshot wound reportable under 11-47-48;
- (5) Between or among qualified personnel and health care providers within the health care system for purposes of coordination of health care services given to the patient and for purposes of education and training within the same health care facility; or
- (6) To third party health insurers including to utilization review agents as provided by 23-17.12-9(c)(4), third party administrators licensed pursuant to chapter 20.7 of title 27 and other entities that provide operational support to adjudicate health insurance claims or administer health benefits;
- (7) To a malpractice insurance carrier or lawyer if the health care provider has reason to anticipate a medical liability action; or
- (8) (i) To the health care provider's own lawyer or medical liability insurance carrier if the patient whose information is at issue brings a medical liability action against a health care provider.
(ii) Disclosure by a health care provider of a patient's health care information which is relevant to a civil action brought by the patient against any person or persons other than that health care provider may occur only under the discovery methods provided by the applicable rules of civil procedure (federal or state). This disclosure shall not be through ex parte contacts and not through informal ex parte contacts with the provider by persons other than the patient or his or her legal representative. Nothing in this section shall limit the right of a patient or his or her attorney to consult with that patient's own physician and to obtain that patient's own health care information.
- (9) To public health authorities in order to carry out their functions as described in this title and titles 21 and 23, and rules promulgated under those titles. These functions include, but are not limited to, investigations into the causes of disease, the control of public health hazards, enforcement of sanitary laws, investigation of reportable diseases, certification and licensure of health professionals and facilities, review of health care such as that required by the federal government and other governmental agencies;
- (10) To the state medical examiner in the event of a fatality that comes under his or her jurisdiction;
- (11) In relation to information that is directly related to current claim for workers' compensation benefits or to any proceeding before the workers' compensation commission or before any court proceeding relating to workers' compensation;
- (12) To the attorneys for a health care provider whenever that provider considers that release of information to be necessary in order to receive adequate legal representation;
- (13) By a health care provider to appropriate school authorities of disease, health screening and/or immunization information required by the school or when a school age child transfers from one school or school district to another school or school district;
- (14) To a law enforcement authority to protect the legal interest of an insurance institution, agent, or insurance-support organization in preventing and prosecuting the perpetration of fraud upon them;
- (15) To a grand jury or to a court of competent jurisdiction pursuant to a subpoena or subpoena duces tecum when that information is required for the investigation or prosecution of criminal wrongdoing by a health care provider relating to his or her or its provisions of health care services and that information is unavailable from any other source; provided, that any information so obtained is not admissible in any criminal proceeding against the patient to whom that information pertains; (16) To the state board of elections pursuant to a subpoena or subpoena duces tecum when that information is required to determine the eligibility of a person to vote by mail ballot and/or the legitimacy of a certification by a physician attesting to a voter's illness or disability;
- (17) To certify, pursuant to chapter 20 of title 17, the nature and permanency of a person's illness or disability, the date when that person was last examined and that it would be an undue hardship for the person to vote at the polls so that the person may obtain a mail ballot;
- (18) To the central cancer registry;
- (19) To the Medicaid fraud control unit of the attorney general's office for the investigation or prosecution of criminal or civil wrongdoing by a health care provider relating to his or her or its provision of health care services to then Medicaid eligible recipients or patients, residents, or former patients or residents of long term residential care facilities; provided, that any information obtained shall not be admissible in any criminal proceeding against the patient to whom that information pertains;

- (20) To the state department of children, youth, and families pertaining to the disclosure of health care records of children in the custody of the department;
- (21) To the foster parent or parents pertaining to the disclosure of health care records of children in the custody of the foster parent or parents; provided, that the foster parent or parents receive appropriate training and have ongoing availability of supervisory assistance in the use of sensitive information that may be the source of distress to these children;
- (22) A hospital may release the fact of a patient's admission and a general description of a patient's condition to persons representing themselves as relatives or friends of the patient or as a representative of the news media. The access to confidential health care information to persons in accredited educational programs under appropriate provider supervision shall not be deemed subject to release or transfer of that information under subsection (a) of this section; or
- (23) To the workers' compensation fraud prevention unit for purposes of investigation under 42-16.1-12 - 42-16.1-16. The release or transfer of confidential health care information under any of the above exceptions is not the basis for any legal liability, civil or criminal, nor considered a violation of this chapter; or
- (24) To a probate court of competent jurisdiction, petitioner, respondent, and/or their attorneys, when the information is contained within a decision-making assessment tool which conforms to the provisions of 33-15-47.
- (c) Third parties receiving and retaining a patient's confidential health care information must establish at least the following security procedures:
- (1) Limit authorized access to personally identifiable confidential health care information to persons having a "need to know" that information; additional employees or agents may have access to that information which does not contain information from which an individual can be identified;
 - (2) Identify an individual or individuals who have responsibility for maintaining security procedures for confidential health care information;
 - (3) Provide a written statement to each employee or agent as to the necessity for maintaining the security and confidentiality of confidential health care information, and of the penalties provided for in this chapter for the unauthorized release, use, or disclosure of this information. The receipt of the statement shall be acknowledged by the employee or agent, who signs and returns the statement to his or her employer or principal, who retains the signed original. The employee or agent shall be furnished with a copy of the signed statement;
 - (4) Take no disciplinary or punitive action against any employee or agent solely for bringing evidence of violation of this chapter to the attention of any person.
- (d) Consent forms for the release or transfer of confidential health care information shall contain, or in the course of an application or claim for insurance be accompanied by a notice containing, the following information in a clear and conspicuous manner:
- (1) A statement of the need for and proposed uses of the information;
 - (2) A statement that all information is to be released or clearly indicating the extent of the information to be released; and
 - (3) A statement that the consent for release or transfer of information may be withdrawn at any future time and is subject to revocation, except where an authorization is executed in connection with an application for a life or health insurance policy in which case the authorization expires two (2) years from the issue date of the insurance policy, and when signed in connection with a claim for benefit under any insurance policy the authorization shall be valid during the pendency of that claim. Any revocation shall be transmitted in writing.
- (e) Except as specifically provided by law, an individual's confidential health care information shall not be given, sold, transferred, or in any way relayed to any other person not specified in the consent form or notice meeting the requirements of subsection (d) of this section, without first obtaining the individual's additional written consent on a form stating the need for the proposed new use of this information or the need for its transfer to another person.
- (f) Nothing contained in this chapter shall be construed to limit the permitted disclosure of confidential health care information and communications described in subsection (b) of this section.