

220-RICR-80-05-1

## **TITLE 220 - DEPARTMENT OF ADMINISTRATION**

### **CHAPTER 80 - DIVERSITY, EQUITY AND OPPORTUNITY**

#### **SUBCHAPTER 05 - EQUAL OPPORTUNITY**

PART 1 - State of Rhode Island Equal Opportunity Office Equal Opportunity and Nondiscrimination in Health Care Regulations and Procedures

#### **1.1 Authority**

As per the requirement set forth in R.I. Gen. Laws § 28-5.1-12, titled "Health Care", the State Equal Opportunity Office shall review the equal opportunity activity of all private health care facilities licensed or chartered in the State of Rhode Island.

#### **1.2 Purpose**

It is the State Equal Opportunity Office's purpose to carry out its responsibilities as mandated by reviewing and monitoring the equal opportunity and nondiscrimination activity of the health care facilities in the state, after establishing the following regulations, compliance standards, and procedures. In addition, the State Equal Opportunity Office will provide technical assistance to the facilities and investigate possible discrimination.

#### **1.3 General Provisions**

- A. Health Care Services - There is a responsibility both in government and private entities to demonstrate to the citizens of Rhode Island that they are deserving of quality health care services to be provided to them in an equal and nondiscriminatory manner and without regard to their race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability.
- B. Admissions - It is every person's right to be admitted to a health care facility regardless of their race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability.
- C. Employment - Equally as important, there is a need for those working in the health care field to be afforded the opportunity to do so without regard to their race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability.

## 1.4 Definitions

- A. The following words and terms shall have the following meanings whenever used in these Regulations.
1. “Affirmative action plan” means a comprehensive plan of action set forth in writing that identifies specifically what the organization plans to do regarding recruiting, hiring, promoting, and training those members of the protected classes for employment purposes. It should also establish the methods in which the plan will be implemented and updated and evaluated for its effectiveness. A section of the plan must address the outreach and implementation methods to those members of the protected classes for servicing purposes.
  2. “Compliance” means in accordance to the standards set forth in these regulations and procedures, R.I. General Law, "Patient's Rights" and all applicable superseding federal laws. (The Civil Rights Act of 1964, The Rehabilitation Act of 1973, The Age Discrimination Act of 1975).
  3. “Health care facility” means any institutional health service provider, facility, or institution, place, building, or agency whether a partnership or corporation, used, operated, or engaged in providing health care services, including, but not limited to hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, rehabilitation and convalescent home, health maintenance organizations, emergency care facilities, and facilities providing surgical treatment to patients not requiring hospitalization. (Exclusions are defined in R.I. Gen. Law § 23-17-2)
  4. “Health care service” means tending to an individual's mental, physical, or psychological needs.
  5. “Knowledge of discrimination” means when the individual has become aware and has made the decision that he/she has been allegedly discriminated against.
  6. “Licensee/charter” means any private health care provider who has to obtain permission to operate its facility from a state regulatory agency.
  7. “Private” means any chartered profit or non-profit health care facility that is licensed to provide services.
  8. “Protected classes” means any person or group of persons who are protected by federal and state laws pertaining to discrimination.
  9. “SEOO” means the State Equal Opportunity Office.

10. "State" means the State of Rhode Island.

## **1.5 Services and Admission Compliance Standards**

- A. Application - All private licensed health care facilities in the state must comply with the following Services and Admission Standards.
- B. Notice - Have an effective and ongoing notification mechanism informing clients/patients that the health care services are available in a nondiscriminatory manner and without regard to one's race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability.
- C. Grievance - Have an effective and ongoing grievance procedure mechanism that a client/patient can clearly follow if they feel they have been denied a service, admittance, or treated differently because they are a member of a protected class.
- D. Filing - The last step in the grievance procedure must include that the charging party can file with the SEOO, 1 Capitol Hill, Providence, RI 02908 or call (401) 222-3090 within ten (10) days of the knowledge of the alleged discrimination.
- E. Planning - The health care facility should be able to verify its efforts or accomplishments in utilizing and consulting with members from,
  - 1. Minority groups, and
  - 2. Disability groups for planning the delivery of services/programs.
- F. Outreach - Have an effective and ongoing means of communicating, advertising, and outreach to the non-English speaking persons who reside in the facility's geographical service area.
- G. Written Information - Have all written pertinent information, such as notices, patient instructions; translated and printed in a variety of languages for the non-English reading persons who reside in the area that the health care facility resides.
- H. Interpreters Verbal - Have an effective and ongoing means of interpreting and verbally communicating with non-English speaking persons who reside in the facility's geographical service area. This may be accomplished by,
  - 1. The availability of a bilingual person, or
  - 2. A formal agreement with an agency who provides interpreter services.

- I. Physical Accessibility - Have an effective and ongoing plan of making the health care facility and its programs physically accessible to people with disabilities. To include,
  - 1. Short and long-term plans to restructure the facility,
  - 2. Move or offer the program or service to an accessible area,
  - 3. Identifying another agency that is accessible which offers the same or equal service/program, and refer the client/patient.
- J. Visually, Hearing-Impaired - Have an effective and ongoing means in which to communicate with the visually and hearing impaired client/patient to,
  - 1. Disseminate and avail your services,
  - 2. Provide treatment and,
  - 3. Provide patient instructions and procedures.
- K. Age - The health care service/program must be made available to all persons regardless of their age unless,
  - 1. The funds for the program/service has been identified as being provided for a specific age group,
  - 2. The consideration of one's age is one of the many factors identified to determine a person's eligibility of the service.
- L. Segregation - No health care facility may discriminate or practice any type of assignment system that has the effect of segregation towards the client's/patient's race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability.
- M. Contractual Agreements - The health care facility must not knowingly contract, to deliver its services with any agency, facility, or organization that has a history of discrimination.

## **1.6 Employment Standards**

- A. Application - All private licensed health care facilities in the State of Rhode Island must comply with the following employment standards.
- B. Affirmative Action Policy - The health care facility must have an Affirmative Action Policy that states that no one will be discriminated against because of their race,

color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability in the areas of,

1. Hiring,
  2. Promotions,
  3. Treatment of,
  4. Terminations,
  5. Benefits
- C. Grievance - Have an effective and clear procedure established in which an employee or applicant can follow and file a complaint if they feel they have been discriminated against. The procedure must include that the employee can file a complaint with the RI Human Rights Commission, 180 Westminster Street, Providence, RI 02903, (401) 222-2662; with one (1) year of the alleged violation.
- D. Notice - The health care facility must have an effective and ongoing mechanism in which to disseminate the above §§ 1.6(B) and (C) of this Part standards to its employees or applicants.
- E. Affirmative Action Plan - The health care facility must have an Affirmative Action Plan if it is a recipient of any state funds or assistance, or employees fifteen (15) or more people. The plan must be available for review upon request to employees and concerned organizations.
- F. Administrative Staffing - The health care facility should have an employee who, on an administrative level, is aware of issues related to this policy, familiar with the federal and state discrimination and civil rights laws, is capable of resolving discrimination complaints, implementing anti-discrimination suggestions or projects and who can act as a liaison with the SEOO for monitoring and providing information purposes.
- G. Employment Agencies/Recruitment - The health care facility in its recruitment efforts must state that they are an equal opportunity employer. It also must notify all of its recruitment sources such as employment agencies that they must abide by the same nondiscrimination laws and regulations in screening and selecting applicants for referrals.
- H. Working Environment - The health care facility shall take specific steps in assuring that its working environment is free from racial, ethnic, sexual, and religious biases. As well as taking measure in assuring that harassing situations

that adversely affect the productivity and well-being of an employee is resolved in an effective and timely manner.

## **1.7 Monitoring and Compliance Procedures**

- A. Compliance Reports - The SEOO requires the health care facility to complete a compliance report annually and upon demand. The information provided by the report will be analyzed for compliance. The health care facility will receive a letter indicating that the compliance report has been received by the SEOO and it is under review. After the information from the compliance report is analyzed, a letter summarizing the compliance report will be sent to the health care facility indicating its results.
- B. Compliance Problems - If the compliance reports indicated that there were any compliance problems, the summarizing letter will indicate them and their significance;
  - 1. Any minor issues will be addressed by recommending a way in which to resolve the problem(s) by letter,
  - 2. Any major compliance problem(s) that is identified will be addressed by the SEOO conducting an on-site visit, according to the following procedures.
- C. On-Site Visit - The health care facility will be notified by letter, in advance of the date of the on-site visit. The notification will also identify the problem(s) that will be reviewed, as well as what documents and information need to be collected in preparation for the visit. An entrance and exit interview will be conducted with the health care facility's appointing authority during the on-site visit. The health care facility will receive the results of the on-site visit. An agreement will be sought to resolve the compliance problem(s).
- D. Agreements - Any resolution(s) to a compliance problem will be identified in an agreement between the health care facility and the SEOO. Time limits in which to resolve the issue(s) will be a major factor in the agreement. The appropriate regulating department or licensor will be put on notice that there is an agreement in effect between the SEOO and the health care facility.
- E. Follow-Up and Results - To review the implementation of the resolution(s) contained in the agreement will be conducted. If a health care facility fails to implement the agreement or some part of the agreement or fails to fulfill the agreement within the time factors agreed upon, the SEOO will notify the appropriate regulatory agency or licensee. The regulating/licensor agency will take any action in which it deems necessary.

## **1.8 Grievance Complaints and Procedures**

- A. Employee Grievances - Employees of the health care facility may file a complaint of discrimination with the RI Human Rights Commission, 180 Westminster St., Providence, RI 02903, (401) 222-2662; within one (1) year of the alleged violation.
  
- B. Denial of Service Grievance - A Client of a health care facility may file a denial of service, due to discrimination or inaccessibility of a service complaint within ten (10) working days from the knowledge of the alleged incident. The client may call the SEOO or write a letter. When a client contacts the SEOO, the following procedures will be placed in action:
  - 1. An SEOO representative will take a formal statement from the client.
  - 2. The health care facility's appointed authority will be notified by the SEOO of the complaint.
  - 3. The SEOO will conduct an investigation.
  - 4. Upon the completion of an investigation, the SEOO will make a determination of probable cause.
  - 5. If probable cause of discrimination or denial of services is not evident, the parties are so informed.
  - 6. Where there is probable cause, the SEOO will try to conciliate the complaint.
  - 7. If an agreement is not reached, a formal hearing will be scheduled.
  - 8. When it has been determined by the formal hearing that denial of service(s) due to discrimination exists, the SEOO will recommend corrective action.
  - 9. If corrective action is not implemented, the SEOO will notify the health care facility's regulating agency/licensor and other state funding source(s) as deemed necessary.

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Editorial Note: This Part was filed with the Department of State prior to the launch of the Rhode Island Code of Regulations. As a result, this digital copy is presented solely as a reference tool. To obtain a certified copy of this Part, contact the Administrative Records Office at (401) 222-2473.