

RULES AND REGULATIONS
RELATED TO THE COLLECTION OF BODILY
SUBSTANCES FOR CRIMINAL IDENTIFICATION
PURPOSES

(R12-5-BODY)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

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INTRODUCTION

These *Rules and Regulations Related to the Collection of Bodily Substances For Criminal Identification Purposes (R12-5-BODY)* are promulgated pursuant to the authority conferred under section 12-5-2 of the Rhode Island General Laws, as amended, and are established for the purpose of adopting prevailing standards for the collection and submission of blood, saliva, hair, bodily tissues, bodily fluids, or dental impressions from the body of a person that may yield evidence of the identity of the perpetrator of a crime when subjected to scientific or other forensic analysis submitted under the requirements of section 12-5-2 of the Rhode Island General Laws, as amended.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following were given consideration in arriving at the regulations: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations, by referencing all applicable laws; and (3) significant economic impact on small business, as defined in Chapter 42-35 of the General Laws, as amended, which could result from the regulations. No impact upon small business was identified. Neither an alternative approach nor any overlap or duplication were identified. The protection of the health, safety and welfare of the public necessitates the adoption of these regulations despite the economic impact which may be incurred as a result.

These amended rules and regulations shall supersede all previous rules and regulations pertaining to the collection and submission of blood, saliva, hair, bodily tissues, bodily fluids, or dental impressions from the body of a person that may yield evidence of the identity of the perpetrator of a crime when subjected to scientific or other forensic analysis submitted under the requirements of section 12-5-2 of the Rhode Island General Laws, as amended, promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

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Section 1.0 ***Definitions***

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

- 1.1 The "***Act***" refers to Chapter 12-5 of the General Laws of Rhode Island, as amended, entitled, "Search Warrants."
- 1.2 "***Bodily fluids***" as used herein, means fluids that have human origin and commonly include blood, saliva, and urine.
- 1.3 "***Bodily tissues***", as used herein, means a group or collection of similar cells and their intercellular substance that act together in the performance of a particular function in a human body.
- 1.4 "***Buccal swab***", as used herein, means a sample of tissue cells taken from the inner lining of the cheek or mouth.
- 1.5 "***Dentist***" means an individual licensed under the provisions of Chapter 5-31.1 of the General Laws of Rhode Island, as amended, to practice dentistry in this state or an individual licensed to practice dentistry under the laws of another state or territory of the United States, or another country.
- 1.6 "***Department***" means the Rhode Island Department of Health.
- 1.7 "***Interocclusal relationship***" means the correlation between the occlusal surfaces or cusps of opposing teeth of the maxillary and mandibular arches.
- 1.8 "***Qualified medical personnel***" means a licensed physician, a physician assistant, a registered or practical nurse, or a phlebotomist, provided that any of the foregoing persons are trained to properly collect blood samples in accordance with the prevailing standard of practice.

Section 2.0 ***General Requirements***

- 2.1 ***Scope of Application:*** These regulations shall apply to the seizure of any of the following: samples of blood, saliva, hair, bodily tissues, bodily fluids, or dental impressions from the body of a person that may yield evidence of the identity of the perpetrator of a crime when subjected to scientific or other forensic analysis. When any of the foregoing samples are seized for scientific or forensic analysis, the seizure shall be conducted in accordance with the regulations stated herein. By adopting these regulations, the Department does not intend to determine under what circumstances a search warrant is required, or should be issued, pursuant to section 12-5-2 of the Rhode Island General Laws, as amended.
- 2.2 ***Integrity of Specimen:*** Specimens of bodily tissues and substances obtained for analysis shall be collected in a manner to ensure the integrity of the specimen(s).
- 2.3 ***Exposure to Infectious Material:*** All specimens shall be collected in an appropriate manner so as to minimize the occupational exposure to blood or other potentially infectious materials, and to reduce the likelihood of exposure to disease.
- 2.4 ***Packaging and Labeling of Specimen:*** All specimens of bodily tissues and substances collected pursuant to the Act shall be collected, properly packaged, and properly preserved as required herein. To the extent possible, all specimens shall include appropriate identifying information, such as the name, date of birth, and gender of the person to whom the specimen belongs, the name or initials of the individual collecting the specimen, the case number, date(s)/ time(s) on which the specimens were collected or transferred, a brief description of the sample, and the name of the agency submitting the specimen.
- 2.5 Evidence shall be sealed in a manner so as to prevent deleterious changes and/or contamination. Seals shall be of a kind that readily show signs of tampering.

Section 3.0 ***Procedures Related to the Collection and Packaging of Bodily Tissues and Substances***

Blood

- 3.1 ***Qualified Medical Personnel:*** The blood specimen(s) taken for analysis shall be collected by qualified medical personnel.
- 3.2 ***Manner of Collection:*** The blood specimen(s) shall be collected in a sterile laboratory tube or such other container so as to avoid contamination, preferably with ethylenediaminetetraacetic acid (EDTA) as a preservative.

Urine

- 3.3 ***Manner of Collection:*** Urine shall be collected in a previously-sealed sterile container.

Hair

- 3.4 ***Representative Sample:*** A representative hair sample of sufficient quantity for testing shall be collected from the head, pubic, or other body area(s).

3.5 **Head and Pubic Hair:** It is desirable to collect approximately twenty (20) hairs plucked from the pubic region, and a representative sample of approximately fifty (50) hairs plucked from the head, if possible.

3.6 **Manner of Collection:** The hair samples from each body area shall be packaged separately into paper envelopes.

Buccal (Oral) Swabs: Manner of Collection: The buccal swab shall be collected using one (1) of the following methods:

3.7 A sterile cotton swab or other appropriate, sterile collection device shall be utilized as follows:

3.7.1 Sterile swabs shall be individually packaged in singles or pairs. (Opening a large package of swabs will render them unsterile).

3.7.2 Remove two (2) sterile swabs from protective packaging.

3.7.3 Holding the handles of the pair of swabs, place the swabs in the mouth and rub the swabs using a twisting motion for at least ten (10) seconds on the inside of the cheek. Repeat using the same swabs on the inside of the other cheek.

3.7.4 Place swabs back into their original packaging, placing handles in first, taking care not to touch the swab end and allow to air dry.

3.7.5 Place dried swabs and packaging into an appropriate transport container, preferably an evidence collection envelope or other envelope with two sealed corners.

3.7.6 If swabs are going to be stored, freeze them.

3.8 A buccal swab may be collected using a commercially available collection device, in accordance with the manufacturer's standards, such as an FTA[®] card, designed for the collection and room-temperature storage of biological samples for subsequent DNA analysis.

Other Bodily Tissues: Fingernail scrapings

Fingernail scrapings

3.9 **Manner of Collection:** Fingernail scrapings shall be collected in an appropriate, unused collection device.

Dental Impressions

3.10 **Manner of Collection:** A dental impression shall be taken by a dentist and shall include an impression of each arch using accepted dental impression techniques, such as those outlined by the American Dental Association. The interocclusal relationship shall be established.

Collection of Foreign Debris

- 3.11 Foreign debris such as dried semen, blood, or saliva shall be collected from a body's skin surface area by lightly moistening sterile cotton swabs with distilled water and then thoroughly swabbing the area with the swabs. Allow the swabs to air dry and then return them to their original paper sleeve with the handles placed in the paper sleeve first.

Section 4.0 *Severability*

- 4.1 If any section, subsection, sentence, clause, phrase or portion of the Act or these regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision and this holding shall not affect the validity of the remaining portions of the Act or these regulations.

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REFERENCES

1. *Blood borne Pathogens*, Occupational Safety and Health Administration (OSHA), 29 *Code of Federal Regulations*, section 1910.1030, Revised July 1, 2003. Available online:
<http://www.gpoaccess.gov/cfr/retrieve.html>
2. *Handbook of Forensic Sciences*, U.S. Department of Justice, Federal Bureau of Investigation, Laboratory Division, Revised 2003. Available online:
<http://www.fbi.gov/hq/lab/handbook/forensics.pdf>