



DDO Summary of Changes

AGENCY:	Behavioral Healthcare, Developmental Disabilities & Hospitals
DIVISION:	Developmental Disabilities
RULE IDENTIFIER:	212-RICR-10-05-01
RULE TITLE:	Rules and Regulations for Developmental Disability Organizations
ERLID:	8447
TYPE OF FILING:	Adoption with Associated Repeal

SUMMARY OF PROPOSED ACTION ON THE RULE:

By this rulemaking, the Department is proposing to:

1. Revise to comply with RICR formatting and codification guidelines. This includes minor, non-substantive corrections in spelling, grammar and formatting throughout the regulation in order to make the regulatory content fit into the RICR format and codification guidelines.
2. Preface summary amended and moved to Section 1.1 – Authority, Purpose and Applicability.
 - a. Remove informational/non-regulatory language
 - b. Added purpose “It the expectation of the Department that each person’s array of supports and services be customized to meet the individual needs and desires in the least restrictive environment” for consistency and strengthened language for federal Home and Community Based Services Final Rule compliance.
3. The Department is introducing Certification Standards to supplement Licensing of Developmental Disability Organizations. As a result, program/service level indicators have been removed from regulation and will be covered by new certification standards. The difference between the two is as follows. Licensing is a statutory mechanism by which the Department grants permission to an agency to operate, and ensures basic health and safety by controlling the entry of providers and facilities and by establishing

standards of conduct for maintaining that status. Certification is a process by which the Department recognizes and evaluates an individual provider organization as having met predetermined requirements or standards demonstrating competence and quality in a specialty program or service area. Certification Standards improve the quality of services by establishing consistent expectations of purpose and outcomes.

4. In the following, section headings (e.g. § 1.02) reference the previous regulations unless noted to refer to a section in the new regulations.

5. § 1.0 Definitions

a. Delete all “abbreviations”

b. Delete

§ 1.02 “Access to Overnight Shared Supports” deleted as no longer referenced in regulation as it relates to funding level and not a regulated service.

§ 1.03 “The Act” removed as specific citations are referenced

§ 1.08 “Attendant Care Services” deleted as no longer referenced in regulation as it is not a DDO regulated service.

§ 1.16 “Clinically Appropriate Services” deleted as no longer referenced in regulation.

§ 1.23 “Core Residential Support Services” was deleted as no longer referenced in regulation.

§ 1.27 “Developmentally disabled adult” deleted as defined in RI Gen Law.

§ 1.29 “Discovery” was deleted as no longer referenced in regulation.

§ 1.33 “Homemaker Service” deleted as no longer referenced in regulation as it is not a DDO regulated service.

§ 1.35 “Hospitalization” was deleted as no longer referenced in regulation.

§ 1.39 “Individualized Procedure” was deleted as the terminology is defined within the regulation and so it was removed to avoid redundancy

§ 1.40 “Individualized Extraordinary Services” was deleted as no longer referenced in regulation.

§ 1.41 “Injury Requiring Medical Care” was deleted as no longer referenced in regulation.

§ 1.44 “Interim Funding Level” was deleted as no longer referenced in regulation.

§ 1.46 “Job Assessment and Development Services” was deleted as no longer referenced in the regulations and was included under the Supported Employment Services definition.

§ 1.47 “Job Coach” was deleted as no longer referenced in the regulations and was included under the Supported Employment Services definition.

§ 1.48 “Job Coaching Services” was deleted as no longer referenced in the regulations and was included under the Supported Employment Services definition.

§ 1.49 “Job Developer” was deleted as no longer referenced in the regulations and was included under the Supported Employment Services definition.

§ 1.50 “Job Retention Services” was deleted as no longer referenced in the regulations and was included under the Supported Employment Services definition.

§ 1.51 “Legend Drug” was deleted as BHDDH does not regulate these drugs. Regulated by DOH.

§ 1.52 “Licensed Health Care Provider” deleted?

§ 1.53 “Major Life Change” deleted from regulations in Division policy.

§ 1.54 “Medicaid Fiscal Agent” not regulated by BHDDH and not referenced in the regulations.

§ 1.56 “Missing Person” not referenced in the regulations.

§ 1.59 “Natural Supports Training Service” not referenced in the regulations.

§ 1.60 “Natural Supports Training Service by Professional Staff” not referenced in the regulations.

§ 1.63 “Non-Delegable Task” deleted from definitions and referenced under 1.11.3 Professional Nursing, by reference to 216-RICR-40-05-3.

§ 1.64 “Nursing Diagnosis” deleted from definitions and referenced under 1.11.3 Professional Nursing, by reference to 216-RICR-40-05-3.

§ 1.65 “Nursing Planning” deleted from definitions and referenced under 1.11.3 Professional Nursing, by reference to 216-RICR-40-05-3.

§ 1.69 “Participant Directed Goods or Services” deleted from definitions as the term is no longer referenced in regulations.

§ 1.73 “Personal Care Attendant” definition deleted. Term is sufficiently clarified in definition of “Behavior Supports.”

§ 1.74 “Personal Emergency Response System” deleted from definitions as the term is no longer referenced in regulations.

§ 1.75 “Positive Behavioral Theory and Practice” deleted from definitions as the term is no longer referenced in regulations. Replaced with “Positive Behavioral Supports” (see below).

§ 1.76 “Prevocational Training Service” deleted from definitions as the term is no longer referenced in regulations. Content of definition, but not the term, is found in Section 1.3 “Supported Employment Services” of the Licensing Regulations.

§ 1.79 “Program/Peer Review Committee” deleted from definitions as the term is no longer referenced in regulations.

§ 1.80 “Provider” deleted as DDO is the only provider referenced in these regulations and does not require further definition.

§ 1.81 “Residential Resources Tiers” deleted from definitions as the term is no longer referenced in regulations.

§ 1.83 “Residential Support Services” deleted from definitions as the term is no longer referenced in regulations. Term is defined in the Licensing Regulations.

§ 1.84 “Resource Allocation Level” deleted from definitions as the term is no longer referenced in regulations.

§ 1.86 “Rhode Island Supplemental SIS Questions” deleted from definitions as the term is no longer referenced in regulations.

§ 1.88 “Service Package” deleted from definitions as the term is no longer referenced in regulations.

§ 1.90 “Shared Living Arrangement Service” deleted from definitions as the term is no longer referenced in regulations.

§ 1.91 “Shared Living Arrangement Study” deleted from definitions as the term is no longer referenced in regulations.

§ 1.92 “Shared Living Arrangement Agency” deleted from definitions as the term is no longer referenced in regulations.

§ 1.92 “Shared Living Arrangement Residence” deleted from definitions as the term is no longer referenced in regulations.

§ 1.94 “Sheltered Workshop” deleted from definitions as the term is no longer referenced in regulations.

§ 1.95 “Situational Assessment” deleted from definitions as the term is no longer referenced in regulations.

§ 1.96 “Specialized Support Services” deleted from definitions as the term is no longer referenced in regulations.

§ 1.98 “Support Facilitation Resource Tiers” deleted from definitions as the term is no longer referenced in regulations.

§ 1.99 “Support Facilitation Service” deleted from definitions as the term is no longer referenced in regulations.

§ 1.100 “Support Facilitator” deleted from definitions as the term is no longer referenced in regulations.

§ 1.102 “Support Coordination Resource Tiers” deleted from definitions as the term is no longer referenced in regulations.

§ 1.103 “Support Coordination Service” deleted from definitions as the term is no longer referenced in regulations.

§ 1.104 “Support Staff” deleted from definitions as the term is no longer referenced in regulations.

§ 1.105 “Supported Employment Placement” was deleted as no longer referenced in the regulations and was included under the Supported Employment Services definition.

§ 1.107 “Support Brokerage Service” deleted from definitions as the term is no longer referenced in regulations.

§ 1.108 “Support Intensity Scale or SIS” deleted from definitions as the term is no longer referenced in regulations.

§ 1.109 “SIS Assessor” deleted from definitions as the term is no longer referenced in regulations.

§ 1.110 “Trial Work Experience” deleted from definitions as the term is no longer referenced in regulations.

§ 1.112 “Vocational Assessment” deleted from definitions as the term is no longer referenced in regulations.

§ 1.113 “Working Age Individuals” deleted from definitions as the term is no longer referenced in regulations.

d. Moved

§ 1.57 Mistreatment moved under abuse related definitions and amended to comply with R.I. Gen. Laws

§ 1.61 Neglect moved under abuse related definitions and amended to comply with R.I. Gen. Laws

§ 1.31 Financial Exploitation/Theft moved under abuse related definitions and deleted theft from the definitions

§ 1.06 “Assessment/Data Collection” moved in its entirety within new regulation to §1.11.3

§ 1.15 “Center-Based Day Program Service” moved in its entirety to BHDDH Licensing Regulations 212-RICR-10-00-01 and the definition was expanded to encompass all day program services.

§ 1.18 “Community Based Day Program Service” moved in its entirety to BHDDH Licensing Regulations 212-RICR-10-00-01.

§ 1.19 “Community Based Supports Service” moved in its entirety to BHDDH Licensing Regulations 212-RICR-10-00-01.

§ 1.20 “Community Residence” moved to the BHDDH Licensing Regulations 212-RICR-10-00-01 and was amended to align terminology with Behavioral Health.

§ 1.21 “Community Residence Support Services” moved to the BHDDH Licensing Regulations 212-RICR-10-00-01 and was amended to align terminology with Behavioral Health.

§ 1.24 “Day Program Service” moved in its entirety to BHDDH Licensing Regulations 212-RICR-10-00-01.

§ 1.42 “Integrated Community-Based Employment” was moved to BHDDH Licensing Regulations 212-RICR-10-00-01 and amended to be termed Supportive Employment Services.

§ 1.45 “Intervention” was moved to BHDDH Licensing Regulations 212-RICR-10-00-01.

§ 1.57 “Mistreatment” was moved into the moved under abuse related definitions and deleted theft from the definitions.

§ 1.58 “Natural Supports” was moved to BHDDH Licensing Regulations 212-RICR-10-00-01.

§ 1.62 “Non-Congregant Residential Support Services” was moved to BHDDH Licensing Regulations 212-RICR-10-00-01.

e. Amended

§ 1.01 “Abuse” amended to comply with current statutes

§ 1.04 “Advocate” amended to expand definition to reflect current practice/role.

§ 1.05 “Agency Health Care Manual” amended to reflect DDO vs Agency but definition remained.

§ 1.09 “Authorization” amended to remove specifics regarding resource allocation as this is departmental function and not DDO.

§ 1.12 “Board” amended to clarify that this term applies to both local and national not for profit organizations.

§ 1.14 “Caregiver” amended to clarify and align definition incorporated within the abuse and reporting statute.

§ 1.22 “Controlled Substance” was amended to comply with current statutes.

§ 1.28 “Developmental Disability Organizations” was amended to clarify ‘organizations’ vs ‘agencies.’

§ 1.38 “Individualized Service Plan” amended to clarify and align definition incorporated within the person-centered planning definition.

§ 1.67 “Office of Quality Assurance and/or Office of Quality Improvement” amended to reflect R. I. Gen. Laws § 40.1.26-2. All other references have been removed.

§ 1.72 “Person-Centered Planning” amended to “Person-Centered” to reflect what is being defined. No change to definition.

§ 1.76 “Practical Nursing” amended to reflect R.I. Gen. Laws § 5-34-3.

§ 1.76 “Professional Nursing” amended to reflect R.I. Gen. Laws § 5-34-3.

§ 1.111 “Violation of Human Rights” amended to reflect R.I. Gen. Laws and these regulations.

f. Add

“Administer” added to clarify a term used in regulation.

“Assessment” added to clarify a term used in regulation.

“Aversive Techniques” added to clarify a term used in regulation.

“Annual Accounting Summary of Participant Funds” added to clarify a term used in regulation.

“Behavioral Supports” added to clarify a term used in regulation.

“Investigation” added to clarify a term used in regulation.

“Office of Licensure and Standards” added for clarification.

“Outcome” added to clarify a term used in regulation.

“Positive Behavioral Supports” added to define term used in current practice.

“Program” added to clarify use of the term.

“Restraint,” “Chemical or Pharmacological Restraint,” “Mechanical Restraint,”
“Physical Restraint” added to clarify terms used in practice.

“Restrictive Intervention” added to clarify current practice.

“Staff” to clarify the use of the term in the regulations.

6. § 2.0 Certification and Licensure moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
7. § 3.0 Admittance of Participants was removed from regulation because it was informational non-regulatory language.
8. § 4.0 Variances moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01 and amended to update language to be consistent with current practice. See General Licensing Summary of Changes.
9. § 5.0 Provider Governance moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
10. § 6.0 Financial Management moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
11. § 7.0 Organization Ethics moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.

12. § 8.0 Quality Assurance/Improvement and Participation Satisfaction moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01 and amended to update language to be consistent with current practice. See General Licensing Summary of Changes.
13. § 9.0 Program Documentation Requirements moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
14. § 10.0 Review Process moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01 and amended to update language to be consistent with current practice. See General Licensing Summary of Changes.
15. § 11.0 Personnel moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
16. § 12.0 Physical Environment Requirements Where Licensed Services Are Provided moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
17. § 13.0 Community Residence; Additional Physical Environment Requirements moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
18. § 14.0 Nutrition moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
19. § 15.0 Safety: Transportation moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
20. § 16.0 Safety: Participant Summary Sheets moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
21. § 17.0 Safety: Emergency Information moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
22. § 18.0 Safety: Emergency Management Plan moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
23. § 19.0 Safety: Fire Safety and Fire Drill Requirements moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.

24. § 20.0 Participants' Rights moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01 and was amended to reflect language changes needed to come into compliance with the federal Home and Community Based Services Final Rule. See General Licensing Summary of Changes.
25. § 21.0 Rights: Handling and Managing Participants' Money and Benefits language was updated to reflect changes needed to come into compliance with the federal Home and Community Based Services Final Rule.
26. § 22.0 Participant/Family Involvement Policy:
 - b) was removed because it duplicates requirements in other areas of the regulations that are more aligned with federal Home and Community Based Services Final Rule.
 - c) was moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01.
 - d) was moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01.
27. § 26.0 Abuse, Neglect, Mistreatment, and Other Human Rights Violations moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
28. § 35.0 Eligibility and Access to Services by Participants was removed from regulations because these functions are nonregulatory and govern internal BHDDH functions.
29. § 37.0 Development of an Individualized Service Plan was shortened and rewritten to become compliant with the federal Home and Community Based Services Final Rule.

§ 37.01 The original read: *“All Participants receiving services from DDOs licensed by BHDDH shall have an annual ISP. The support coordinator assigned to the Participant shall have primary responsibility for activities related to the ISP process, including preparation for the ISP meeting, conducting the ISP meeting, follow-up documentation of the ISP meeting, and ongoing monitoring of the ISP.”*

The requirements that all participants have an annual ISP and that the support coordinator is responsible for ongoing monitoring were carried over to the new regulations.

The rest of the language was removed because it was not compliant with the federal Home and Community Based Services Final Rule, and was replaced by the following compliant language: *“DDOs must respect and support each participant’s control over their own ISP and the ISP meeting, including participant choice of plan writer, selection of who to invite to the plan meeting, choice of time and location, decision on how to conduct and who will conduct the ISP meeting, and setting of goals and objectives meaningful to the participant.”* and *“All participants receiving services from DDOs shall have an annual ISP*

submitted and approved before the individual's anniversary date. Late submissions will cause authorizations to be suspended until a new plan is accepted. DDOs cannot retroactively bill for time when an authorization is suspended."

§ 37.02 and § 37.05 through § 37.11 were removed because they were not compliant with the federal Home and Community Based Services Final Rule.

§ 37.03 through § 37.04 were removed from regulation because they contain informational and non-regulatory language.

§ 37.12 through § 37.15 and § 37.17 were removed from regulations because some content was not compliant with the federal Home and Community Based Services Final Rule and some was informational and/or non-regulatory.

§ 37.16 and § 37.18 were removed from regulations because these functions are nonregulatory and govern internal BHDDH functions.

§ 37.20 through § 37.21 were removed because they did not comply with the federal Home and Community Based Services Final Rule. This was replaced with new language describing the DDO responsibilities: *"The DDO's support coordinator is responsible for ensuring that a plan is person-centered, includes a Career Development Plan, is agreed to and signed by the participant, amended as needed or requested, and for the ongoing monitoring of how the DDO is meeting the ISP goals and objectives."* Additional requirements related to service delivery were removed as they are now addressed in certification standards.

§ 37.22 through § 37.25 were removed from regulations because some content was not compliant with the federal Home and Community Based Services Final Rule and some was informational and/or non-regulatory.

Addition: Language was added to address documentation requirements to justify any modification to a participant's rights in the ISP.

30. § 38.0 Specialized Support Services was removed from regulations because these functions are nonregulatory and govern internal BHDDH functions.

31. § 39.0 Residential Support Services General Requirements:

§ 39.01 through § 39.04 moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.

§ 39.05 through § 39.06 were amended to update language to be consistent with person-centered practice and choices as required by the federal Home and Community Based Services Final Rule.

§ 39.07 was amended to update language to be consistent with current practice.

§ 39.08; § 39.11; § 39.13; and § 39.15 were removed.

§ 39.09 and § 39.14 were removed from regulation because they relate to areas regulated outside of the Department.

§ 39.16 language was updated, and section reformatted to simplify and reflect current practice.

§ 39.17 was removed from regulation as it reflects services that are addressed in certification standards.

Addition: The following language was added to comply with requirements of the federal Home and Community Based Services Final Rule: *“The DDO ensures that there is a legally enforceable written agreement that includes, at minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant laws of the state, county, city or other designated entity.”*

32. § 40.0 Community Residence Requirements moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
33. § 41.0 Non-Congregant Residential Support Services moved in its entirety to BHDDH General Licensing Regulations 212-RICR-10-00-01. See General Licensing Summary of Changes.
34. § 42.0 Shared Living Arrangements: Most of this section addressed service delivery by Shared Living Contractors. The Department does not regulate Shared Living Contractors, so the following provisions were removed from this Part: § 42.01 through § 42.06; § 42.08; § 42.10 through § 42.13; § 42.18; § 42.21 through § 42.52; § 42.56; § 42.57; and § 42.60 through § 42.70, with the exception of § 42.49.03 and § 42.49.04, which have been retained. The revised regulations address only the DDO’s regulatory responsibilities for shared living services.

§ 42.07 was removed as records retention is addressed in BHDDH General Licensing Regulations 212-RICR-10-00-01.

§ 42.09 was removed as duty to report is addressed in BHDDH General Licensing Regulations 212-RICR-10-00-01.

§ 42.14 through § 42.16 were consolidated and language was updated to reflect current practice.

§ 42.18 was removed as staff training is addressed in BHDDH General Licensing Regulations 212-RICR-10-00-01.

§ 42.19 through § 42.20 were removed and replaced by new language that the DDO shall *“Have a policy to define its SLA oversight plan that includes face to face visitation, commensurate with the needs of the provider and the needs and preferences of the participant.”*

§ 42.17 and § 42.53 through § 42.55 were consolidated and language was updated to reflect current practice.

§ 42.58 and § 42.59 Management of Behavioral Issues was removed as this is addressed in the behavioral supports and treatment section of this Part.

35. § 43.0 Day Activity Services was removed from regulation because it was informational non-regulatory language.
36. § 44.0 Day Program Services was removed from regulation as it reflects that services are regulated under the Organization license and not as individual “service licenses,” except for § 44.03, which was removed because it is Departmental fiscal policy not a regulation governing DDOs, and § 44.04-44.05 which replaces prescriptive language about staff ratios with the following language that is compliant with the federal Home and Community Based Services Final Rule: *“The DDO must have adequate staffing as identified for each participant and as documented in the ISP.”*
37. § 45.0 Supported Employment Services was removed from regulation as it reflects that services are regulated under the Organization license and not as individual “service licenses,” services.
38. § 46.01 through § 46.02 Self-Directed Care and Services; § 46.18 Supports Facilitator and Brokerage Services; and § 46.19 through § 46.25 Participant Directed Goods and Services were removed from regulation because they contain informational and non-regulatory language. § 46.03 through § 46.17 Fiscal Intermediary Services were amended to update language to be consistent with current practice.
39. § 47.01 through § 47.06 Community-Based Supports Services covers services that have been moved into certification standards. § 47.07 through § 47.08 Natural Supports Training and Qualifications were removed because they cover functions not performed by a DDO. § 47.09 through § 47.10 Assistive Technology were removed because they are informational and non-regulatory language.
40. § 49.20 through § 49.23 Oxygen (O2) Therapy Guidelines; § 49.29; § 49.30; and § 49.34 were removed because they relate to areas regulated outside of the Department.
41. § 50.0 removed because it is not used in the new RICR format.

42. Appendix 2 was removed because it is non-regulatory in nature and appendices are no longer allowed in new RICR format.