

In The Matter Of:
Public Hearing on Rules and Regulations

Rules & Regulations For Developmental Disabilities
September 18, 2018



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ORIGINAL

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

 IN RE: *
 *
 RULES AND REGULATIONS FOR * (212-RICR-10-05-1)
 DEVELOPMENTAL DISABILITY *
 ORGANIZATIONS *

DATE: September 18, 2018
 TIME: 11:00 A.M.
 PLACE: Pastore Complex
 Arnold Conference Center
 111 Howard Avenue
 Cranston, Rhode Island 02920

APPEARANCES:

FOR THE DEPARTMENT OF BEHAVIORAL HEALTHCARE,
 DEVELOPMENTAL DISABILITIES & HOSPITALS:
 BY: Kevin Savage, Associate Director of
 Behavioral Healthcare, Developmental
 Disabilities & Hospitals

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E-X-H-I-B-I-T-S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT NO.	DESCRIPTION	PAGE
Exhibit 1	Public Notice of Proposed Rulemaking (2 pgs).....	3
Exhibit 2	E-mail dated 9/7/18 Re: BHDDH Public Notice of Proposed Rulemaking (3 pgs).....	3
Exhibit 3	Rules and Regulations for the Licensing of Developmental Disability Organizations (136 pgs).....	3
Exhibit 4	Title 212 - Department of Behavioral Healthcare Developmental Disabilities, and Hospitals (21 pages).....	3
Exhibit 5	Letter dated 9/18/18 from Gail Theriault, Esquire (3 pgs)....	3
Exhibit 6	212-RICR-10-05-1 (1 pg).....	3

1 (HEARING COMMENCED AT 11:01 A.M.)

2 EXHIBITS 1-6 MARKED FOR I.D.

3 MR. SAVAGE: So, welcome everyone. We're
4 here today regarding a public hearing concerning
5 proposed regulations entitled, "Rules and
6 Regulations For Developmental Disabilities
7 (212-RICR-10-05-1)."

8 This hearing is being conducted under the
9 provisions of the Administrative Procedures Act,
10 R.I. General Laws Section 42-35-3. Today is
11 Tuesday, September 18, 2018.

12 My name is Kevin Savage, and I will be the
13 Department Official for today's proceeding.
14 Before we start, and so as not to interrupt the
15 proceedings, I would like to ask those of you with
16 cell phones to turn them off at this time.

17 The purpose of the hearing today is to
18 afford interested parties an opportunity to
19 comment on the proposed regulations. This hearing
20 is intended for your participation only, and is
21 not intended as a means of providing a forum for
22 discussing, debating, arguing, or otherwise having
23 any dialogue on the record with members of the
24 Department of Behavioral Healthcare, Developmental
25 Disabilities and Hospitals.

1 If you would like to speak, the procedure
2 we will use is as follows:

3 Register outside the room.

4 Speakers will be taken in order of
5 registration.

6 Five minutes will be allowed for your
7 presentation.

8 When you are called:

9 Come to the podium in front of the room.

10 Identify yourself by name and affiliation,
11 if any.

12 Make your presentation.

13 If you have a written copy of your
14 statement, we would appreciate having that for the
15 record. Just give it to me at the front table,
16 and we will enter it as an exhibit.

17 After that time has elapsed for submission
18 of written commentary, the Department has four
19 options under state law:

20 The first option is file "as is" with the
21 Secretary of State.

22 The second option is to file with minor
23 changes.

24 The third is to make changes in what you
25 see before you today, which would necessitate a

1 new public hearing.

2 The fourth option is to not file, in which
3 case, the current regulations would remain in
4 effect.

5 Unless otherwise specified by law or
6 regulations, if filed, the regulations become
7 effective 20 days after filing and have the force
8 of law.

9 Are there any questions on how the public
10 hearing will be conducted today?

11 (NO RESPONSE)

12 MR. SAVAGE: At this time, for the record,
13 we will have a presentation of exhibits. I have
14 submitted the exhibits.

15 One, a "Notice of Proposed Rulemaking"
16 dated September 6, 2018.

17 A copy of e-mails sent to the "BHDDH
18 Public Notice of Proposed Rulemaking" list
19 September 7th, 2018 noticing the 30-day public
20 comment process.

21 The third exhibit, a copy of the existing
22 regulations, "Rules and Regulations for the
23 Licensing of Developmental Disability
24 Organizations last amended December of 2016."

25 And, lastly, a copy of the proposed rules

1 entitled, "Rules and Regulations for Developmental
2 Disability Organizations dated September of 2018."

3 At this time, I would like to call the
4 first speaker. If I could get the list of
5 speakers, I'd appreciate that. Donna Martin?

6 MS. MARTIN: Thank you, Director Savage.
7 I have a copy for the record. The comments that I
8 have just provided -- well, let me restate. My
9 name is Donna Martin, I'm the Executive Director
10 for Community Provider Network of Rhode Island,
11 and we are -- I am here on behalf of my members in
12 support of the proposed regulatory changes.

13 The document that I submitted for the
14 record encompasses our comments on both the
15 licensing and general administration provisions in
16 Chapter 10, as well as more specifically the DD
17 Organization, Chapter 10, Subchapter 5.

18 Should I hold these comments to just the
19 DD section or can I run through all of them?

20 MR. SAVAGE: Are you asking if you can
21 comment on regulations for other groups?

22 MS. MARTIN: For the general.

23 MR. SAVAGE: No, hold that for the next
24 hearing.

25 MS. MARTIN: So relative to Title 212,

1 Chapter 10 - Licensing and General Administration,
2 Subchapter 5, Developmental Disability
3 Organizations, we have several specific comments
4 and a couple of general. I'll start with
5 specifics. In the Definition section, Item #9
6 under "Behavioral supports."

7 This definition refers to "Core"
8 residential services, and we ask that this
9 reference be removed. We are concerned that it
10 was mistakenly carried over from previous
11 regulations as there no longer is a working
12 definition or service category of "Core"
13 residential services. We ask that the reference
14 to "Core" be stricken.

15 Definition #54: "Shared living
16 arrangement contractor." This definition also
17 refers to the "Core" residential services, and for
18 the same reasons, we ask that that be stricken.

19 Definition #55: "Staff." It is our
20 opinion that the reference to interns and
21 especially to volunteers be removed from this
22 definition as volunteers are clearly not staff or
23 employees. They're not supported by the
24 organization, and we ask that the intern and the
25 volunteer reference be stricken from the

1 definition.

2 Item or Section 1.10.4 - "Respite:" Item
3 E. This section appears to require that all
4 respite providers be treated as agency employees
5 and meet specific employment and training
6 requirements. Currently, some agencies utilize
7 respite providers as independent contractors.
8 Implementing this section of regulation would
9 require a significant change in policy and
10 practice, and was not vetted as part of our
11 stakeholder process.

12 Item 1.11.3: "Documentation Standards and
13 Maintenance of Health Care Records." Item D, the
14 requirement of health care records to be
15 maintained for ten years following the cessation
16 of service delivery appears to reflect an
17 increased requirement for record retention as we
18 currently are required to keep such records for
19 seven years following the cessation of service
20 provisions. We ask that this requirement be
21 modified to its original request of seven years.

22 And item 1.12.11: "Restraint Report."
23 Item A.4. a and b." Item A.4.a should be a
24 stand-alone requirement in our opinion in this
25 section as we are to monitor for signs and

1 symptoms of distress during any intervention even
2 if injury is not resulting.

3 And Item b does not seem to make sense,
4 and we question if there's an error. If not, we
5 request that the Department elaborate on the
6 intention and meaning of this requirement.

7 That concludes our specific comments on
8 the General and DD specific proposed regulations.

9 We'd also like to, by way of general
10 comment, commend the Department, the Division of
11 DD, and specifically the Office of Facilities and
12 Program Standards and Licensure for their fidelity
13 to an open stakeholder engagement process as these
14 regulations were reviewed and updated. The
15 members of CPNRI and, in particular, those who
16 were engaged in this process specifically, greatly
17 appreciate the opportunity for sincere input and
18 dialogue as we work towards creating a body of
19 regulations that reflect contemporary best
20 practice while setting the guide rails for
21 person-centered practices and agency operations.
22 Thank you.

23 MR. SAVAGE: Just a point of
24 clarification. I believe the exhibit is the
25 second session of this, not the full document; is

1 that correct?

2 MS. MARTIN: Yes.

3 MR. SAVAGE: Okay. Thank you. Mary Beth
4 Cournoyer?

5 MS. COURNOYER: My name is Mary Beth
6 Cournoyer, I'm a parent. I also want to reiterate
7 what Donna said. I want to thank you for allowing
8 all of us to be part of this process. I think it
9 was held in fidelity, and I especially want to
10 recognize you because I sat on three different
11 subcommittees, and we had some fairly healthy
12 conversations, and I really appreciated that every
13 person was allowed input.

14 You recognized everything, and yet you
15 were able to keep it in a way that it moved
16 forward, and we didn't get bogged down and so
17 forth. I'm grateful that as a parent I was able
18 to participate. So, from a parent's perspective,
19 what I want to say in the definition section, I
20 noticed that you've kind of pared out some of the
21 definitions where some are in general and some are
22 DD-specific.

23 I understand why you did that, but there
24 are things like the career development plan
25 caregiver, et cetera, Bay State Service, all of

1 those definitions, if you're going to have them in
2 another place, it might be helpful to reference
3 that so that you want to make it easily
4 understandable for all populations. So it's maybe
5 not thoughtful to have them in another place with
6 no reference as to where that place would be.

7 The other thing that I noticed is that in
8 the old regs, you listed requirements of agencies.
9 In the new regs, you listed Human Rights Committee
10 and grievances as separate sections. Again, if I
11 were going back and trying to understand the way
12 things are written, I would want to know what are
13 the requirements of the agency. So I probably
14 would have left that as a heading, and then
15 underneath of it explained Human Rights Committee
16 with all of its regs and grievances because those
17 are all part of it.

18 So, if I'm trying to understand where to
19 go. If I'm not familiar with what a Human Rights
20 Committee is, I don't really know what it's
21 referring. I liked the way the old one was done.
22 It was listing the requirements of agencies. The
23 other piece on 1.4A, which is part of the Human
24 Rights Committee, one of the things that we agreed
25 to where it said the Human Rights Committee shall

1 have input on all organizations, policies
2 pertaining to human rights, consistent with the
3 provisions and so forth.

4 In the subcommittee, we added consistent
5 with participant's learning style. So I think
6 that's something that should be added in, and then
7 on 1.8 regarding transitions, there are no
8 specifics on timeline or transfer of information,
9 so I think that needs to be put back in so it's
10 more specific regarding transition.

11 MR. SAVAGE: Thank you very much.

12 MS. COURNOYER: Thank you very much for
13 allowing me to be heard.

14 MR. SAVAGE: Those were the only two
15 people who signed up to speak. Was there anybody
16 else who would like to speak now?

17 (NO RESPONSE)

18 MR. SAVAGE: Any other comments?

19 (NO RESPONSE)

20 MR. SAVAGE: Okay. The submission of any
21 written commentary on the proposed regulations
22 will be accepted until the close of business on
23 Saturday, October 6th, 2018. There was a question
24 on what that actually means since the state isn't
25 open on Saturdays, but that is the closing of the

1 period. So, we'll accept documents until the end
2 of the day on Saturday; so until midnight on
3 Saturday, October 6th.

4 Thank you for your attendance at this
5 hearing, and the hearing is now closed. That's
6 it. That concludes this hearing.

7 (HEARING CONCLUDED AT 11:17 A.M.)

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C-E-R-T-I-F-I-C-A-T-I-O-N

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PROVIDENCE, SC.

I, SALLY BRASSARD, do hereby certify that
the foregoing is a true, accurate, and complete
transcript of my notes taken of the above-entitled
proceeding.

IN WITNESS WHEREOF, I have hereunto set my
hand this 28th day of September, 2018.

Sally Brassard
Notary Public


SALLY BRASSARD, CSR/RPR
NOTARY PUBLIC
MY COMMISSION EXPIRES: 1/16/21

	Behavioral (1) 7:6	12:18	development (1) 10:24	et (1) 10:25
#	best (1) 9:19	Committee (5) 11:9,15,20,24,25	Developmental (3) 5:23;6:1;7:2	even (1) 9:1
#54 (1) 7:15	Beth (2) 10:3,5	Community (1) 6:10	dialogue (1) 9:18	Executive (1) 6:9
#55 (1) 7:19	BHDDH (1) 5:17	concerned (1) 7:9	different (1) 10:10	exhibit (2) 5:21;9:24
#9 (1) 7:5	body (1) 9:18	CONCLUDED (1) 13:7	Director (2) 6:6,9	exhibits (2) 5:13,14
A	bogged (1) 10:16	concludes (2) 9:7;13:6	Disability (3) 5:23;6:2;7:2	existing (1) 5:21
A4 (1) 8:23	both (1) 6:14	conducted (1) 5:10	distress (1) 9:1	explained (1) 11:15
A4a (1) 8:23	business (1) 12:22	consistent (2) 12:2,4	Division (1) 9:10	F
able (2) 10:15,17	C	contemporary (1) 9:19	document (2) 6:13;9:25	Facilities (1) 9:11
accept (1) 13:1	call (1) 6:3	contractor (1) 7:16	Documentation (1) 8:12	fairly (1) 10:11
accepted (1) 12:22	can (2) 6:19,20	contractors (1) 8:7	documents (1) 13:1	familiar (1) 11:19
actually (1) 12:24	Care (2) 8:13,14	conversations (1) 10:12	done (1) 11:21	faithfulness (1) 9:12;10:9
added (2) 12:4,6	career (1) 10:24	copy (4) 5:17,21,25;6:7	Donna (3) 6:5,9;10:7	file (1) 5:2
administration (2) 6:15;7:1	caregiver (1) 10:25	Core (4) 7:7,12,14,17	down (1) 10:16	filed (1) 5:6
Again (1) 11:10	carried (1) 7:10	couple (1) 7:4	during (1) 9:1	filing (1) 5:7
agencies (3) 8:6;11:8,22	case (1) 5:3	Cournoyer (4) 10:4,5,6;12:12	E	first (1) 6:4
agency (3) 8:4;9:21;11:13	category (1) 7:12	CPNRI (1) 9:15	easily (1) 11:3	following (2) 8:15,19
agreed (1) 11:24	cessation (2) 8:15,19	creating (1) 9:18	effect (1) 5:4	force (1) 5:7
allowed (1) 10:13	cetera (1) 10:25	current (1) 5:3	effective (1) 5:7	forth (2) 10:17;12:3
allowing (2) 10:7;12:13	change (1) 8:9	Currently (2) 8:6,18	elaborate (1) 9:5	forward (1) 10:16
amended (1) 5:24	changes (1) 6:12	D	else (1) 12:16	fourth (1) 5:2
appears (2) 8:3,16	Chapter (3) 6:16,17;7:1	dated (2) 5:16;6:2	e-mails (1) 5:17	full (1) 9:25
appreciate (2) 6:5;9:17	clarification (1) 9:24	day (1) 13:2	employees (2) 7:23;8:4	G
appreciated (1) 10:12	clearly (1) 7:22	days (1) 5:7	employment (1) 8:5	general (7) 6:15,22;7:1,4;9:8, 9:10;21
arrangement (1) 7:16	close (1) 12:22	DD (4) 6:16,19;9:8,11	encompasses (1) 6:14	grateful (1) 10:17
attendance (1) 13:4	closed (1) 13:5	DD-specific (1) 10:22	end (1) 13:1	greatly (1) 9:16
B	closing (1) 12:25	December (1) 5:24	engaged (1) 9:16	grievances (2) 11:10,16
back (2) 11:11;12:9	commend (1) 9:10	Definition (9) 7:5,7,12,15,16,19, 22;8:1;10:19	engagement (1) 9:13	groups (1) 6:21
Bay (1) 10:25	comment (3) 5:20;6:21;9:10	definitions (2) 10:21;11:1	entitled (1) 6:1	guide (1) 9:20
become (1) 5:6	commentary (1) 12:21	delivery (1) 8:16	error (1) 9:4	
behalf (1) 6:11	comments (6) 6:7,14,18;7:3;9:7;	Department (2) 9:5,10	especially (2) 7:21;10:9	

	lastly (1) 5:25		part (4) 8:10;10:8;11:17,23	12:9
H	law (2) 5:5,8	N	participant's (1) 12:5	R
heading (1) 11:14	learning (1) 12:5	name (2) 6:9;10:5	participate (1) 10:18	rails (1) 9:20
Health (2) 8:13,14	left (1) 11:14	needs (1) 12:9	particular (1) 9:15	really (2) 10:12;11:20
healthy (1) 10:11	Licensing (3) 5:23;6:15;7:1	Network (1) 6:10	people (1) 12:15	reasons (1) 7:18
heard (1) 12:13	Licensure (1) 9:12	new (2) 5:1;11:9	period (1) 13:1	recognize (1) 10:10
hearing (7) 5:1,10;6:24;13:5,5,6,7	liked (1) 11:21	next (1) 6:23	person (1) 10:13	recognized (1) 10:14
held (1) 10:9	list (2) 5:18;6:4	Notice (2) 5:15,18	person-centered (1) 9:21	record (4) 5:12;6:7,14;8:17
helpful (1) 11:2	listed (2) 11:8,9	noticed (2) 10:20;11:7	perspective (1) 10:18	Records (3) 8:13,14,18
hold (2) 6:18,23	listing (1) 11:22	noticing (1) 5:19	pertaining (1) 12:2	reference (6) 7:9,13,20,25;11:2,6
Human (6) 11:9,15,19,23,25; 12:2	living (1) 7:15	O	piece (1) 11:23	referring (1) 11:21
I	longer (1) 7:11	October (2) 12:23;13:3	place (3) 11:2,5,6	refers (2) 7:7,17
	M	Office (1) 9:11	plan (1) 10:24	reflect (2) 8:16;9:19
Implementing (1) 8:8	maintained (1) 8:15	old (2) 11:8,21	point (1) 9:23	regarding (2) 12:7,10
increased (1) 8:17	Maintenance (1) 8:13	One (3) 5:15;11:21,24	policies (1) 12:1	regs (3) 11:8,9,16
independent (1) 8:7	Martin (6) 6:5,6,9,22,25;10:2	only (1) 12:14	policy (1) 8:9	regulation (1) 8:8
information (1) 12:8	Mary (2) 10:3,5	open (2) 9:13;12:25	populations (1) 11:4	regulations (12) 5:3,6,6,22,22;6:1,21;7:11;9:8,14,19; 12:21
injury (1) 9:2	maybe (1) 11:4	operations (1) 9:21	practice (2) 8:10;9:20	regulatory (1) 6:12
input (3) 9:17;10:13;12:1	meaning (1) 9:6	opinion (2) 7:20;8:24	practices (1) 9:21	reiterate (1) 10:6
intention (1) 9:6	means (1) 12:24	opportunity (1) 9:17	presentation (1) 5:13	relative (1) 6:25
intern (1) 7:24	meet (1) 8:5	option (1) 5:2	previous (1) 7:10	remain (1) 5:3
interns (1) 7:20	members (2) 6:11;9:15	Organization (2) 6:17;7:24	probably (1) 11:13	removed (2) 7:9,21
intervention (1) 9:1	midnight (1) 13:2	Organizations (4) 5:24;6:2;7:3;12:1	process (5) 5:20;8:11;9:13,16; 10:8	Report (1) 8:22
Island (1) 6:10	might (1) 11:2	original (1) 8:21	Program (1) 9:12	request (2) 8:21;9:5
Item (9) 7:5;8:2,2,12,13,22, 23,23;9:3	mistakenly (1) 7:10	otherwise (1) 5:5	Proposed (6) 5:15,18,25;6:12; 9:8;12:21	require (2) 8:3,9
K	modified (1) 8:21	out (1) 10:20	provided (1) 6:8	required (1) 8:18
keep (2) 8:18;10:15	monitor (1) 8:25	over (1) 7:10	Provider (1) 6:10	requirement (5) 8:14,17,20,24;9:6
kind (1) 10:20	more (2) 6:16;12:10	P	providers (2) 8:4,7	requirements (4) 8:6;11:8,13,22
L	moved (1) 10:15	pared (1) 10:20	provisions (3) 6:15;8:20;12:3	residential (3) 7:8,13,17
last (1) 5:24	much (2) 12:11,12	parent (2) 10:6,17	public (4) 5:1,9,18,19	Respite (3) 8:2,4,7
		parent's (1) 10:18	put (1)	RESPONSE (3)

5:11;12:17,19 restate (1) 6:8 Restraint (1) 8:22 resulting (1) 9:2 retention (1) 8:17 reviewed (1) 9:14 Rhode (1) 6:10 Rights (6) 11:9,15,19,24,25; 12:2 Rulemaking (2) 5:15,18 Rules (3) 5:22,25;6:1 run (1) 6:19	8:19,21 several (1) 7:3 shall (1) 11:25 Shared (1) 7:15 signed (1) 12:15 significant (1) 8:9 signs (1) 8:25 sincere (1) 9:17 speak (2) 12:15,16 speaker (1) 6:4 speakers (1) 6:5 specific (5) 7:3;8:5;9:7,8;12:10 specifically (3) 6:16;9:11,16 specifics (2) 7:5;12:8 specified (1) 5:5 Staff (2) 7:19,22 stakeholder (2) 8:11;9:13 stand-alone (1) 8:24 Standards (2) 8:12;9:12 start (1) 7:4 State (2) 10:25;12:24 stricken (3) 7:14,18,25 style (1) 12:5 Subchapter (2) 6:17;7:2 subcommittee (1) 12:4 subcommittees (1) 10:11 submission (1) 12:20 submitted (2) 5:14;6:13 support (1) 6:12 supported (1) 7:23 supports (1) 7:6 symptoms (1) 9:1		9:9;10:15;11:11,21 work (1) 9:18 working (1) 7:11 written (2) 11:12;12:21
S		T	Y
same (1) 7:18 sat (1) 10:10 Saturday (3) 12:23;13:2,3 Saturdays (1) 12:25 SAVAGE (10) 5:12;6:6,20,23; 9:23;10:3;12:11,14, 18,20 second (1) 9:25 section (7) 6:19;7:5;8:2,3,8, 25;10:19 sections (1) 11:10 seem (1) 9:3 sense (1) 9:3 sent (1) 5:17 separate (1) 11:10 September (3) 5:16,19;6:2 service (4) 7:12;8:16,19;10:25 services (3) 7:8,13,17 session (1) 9:25 setting (1) 9:20 seven (2)	ten (1) 8:15 third (1) 5:21 thoughtful (1) 11:5 three (1) 10:10 timeline (1) 12:8 Title (1) 6:25 today (1) 5:10 towards (1) 9:18 training (1) 8:5 transfer (1) 12:8 transition (1) 12:10 transitions (1) 12:7 treated (1) 8:4 trying (2) 11:11,18 two (1) 12:14		years (3) 8:15,19,21
		U	1
		V	2
		W	3
			5
			6
			7
			1.10.4 (1) 8:2 1.11.3 (1) 8:12 1.12.11 (1) 8:22 1.4A (1) 11:23 1.8 (1) 12:7 10 (3) 6:16,17;7:1 11:17 (1) 13:7
			20 (1) 5:7 2016 (1) 5:24 2018 (4) 5:16,19;6:2;12:23 212 (1) 6:25
			30-day (1) 5:19
			5 (2) 6:17;7:2
			6 (1) 5:16 6th (2) 12:23;13:3
			7th (1) 5:19
			way (4)