

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

**DEPARTMENT OF BEHAVIORAL HEALTHCARE, DEVELOPMENTAL
DISABILITIES AND HOSPITALS**

Title of Rule: Rules and Regulations for Behavioral Healthcare Organizations

Rule Identifier: 212-RICR-10-10-01

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: October 11, 2023

End of Public Comment: November 10, 2023

Rulemaking Authority:

R.I. Gen. Laws § 40.1-1-13(a)(12)

R.I. Gen. Laws § 40.1-2-2

R.I. Gen. Laws § 40.1-3-7

R.I. Gen. Laws § 40.1-5-3(g)

R.I. Gen. Laws § 40.1-5.4-11

R.I. Gen. Laws § 40.1-8.5-7(1)

R.I. Gen. Laws § 40.1-24-9

R.I. Gen. Laws § 40.1-24-11

R.I. Gen. Laws § 40.1-24.5-2(c)

R.I. Gen. Laws § 40.1-25.1-6

Summary of Rulemaking Action:

The regulatory changes proposed in this filing are identical to the regulatory language currently in effect as of 08/09/2023. Amendments to 212-RICR-10-10-01 were originally noticed for public comment on 06/15/2023. During the public comment period, a technical error within the RICR system may have prevented comments submitted through RICR's attachment field from being received by the agency. Any comments submitted directly through RICR's text box option (with no attachments) or submitted directly to the agency were processed successfully. As a result of the technical error, the agency is repromulgating the regulatory changes (effective as of 08/09/2023) to ensure that the public has full access to submit public comments as originally intended. The regulatory language included in this notice shows the redlined changes proposed in the most recent promulgation as well as redlined changes made as a logical outgrowth of the initial public comment period. The agency is noticing these changes for additional public comment.

These regulations are being issued so that BHDDH may continue its standard Behavioral Healthcare Organization (BHO) regulations but also adds new regulation sections that permit BHDDH to license a new category of group home known as Enhanced Mental Health Psychiatric Rehabilitative Residences (E-MHPRR), which will allow discharge of psychiatric inpatients who no longer require "hospital level of care." The new language is approximately ten pages long and begins on page 57 in the attached 87-page BHO regulations. The affected regulations are 210-RICR-10-1-01 § 1.6.12.F (p. 58) and § 1.6.12.G (p. 67).

Additional Information and Public Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until November 10, 2023 by contacting the appropriate party at the address listed below:

Thomas Corrigan
Department of Behavioral Healthcare, Developmental Disabilities and Hospitals
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In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by a governmental agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of the publication of this notice.

Regulatory Analysis Summary and Supporting Documentation:

These regulations are being issued so that BHDDH may continue its standard Behavioral Healthcare Organization (BHO) regulations and add a new license category of Enhanced Mental Health Psychiatric Rehabilitative Residences (E-MHPRR) group home beds, which will allow discharge of psychiatric inpatients who no longer require "hospital level of care."

On December 19, 2022 (and updated on January 17, 2023), the federal Centers for Medicare and Medicaid Services (CMS) approved BHDDH to begin licensing a new type of group home, Enhanced Mental Health Psychiatric Rehabilitative Residences (E-MHPRRs) that will be reimbursable by CMS/EOHHS at a much higher daily rate (\$525) than the two traditional group home categories that BHDDH already licenses (Basic and Specialized MHPRRs). It is anticipated that one new residence will open in September 2023, with this new type of license. The Department anticipates that there will be a total of eight E-MHPRRs in operation by the close of SFY 34.

Some inpatients at the Eleanor Slater Hospital, the Rhode Island State Psychiatric Hospital and psychiatric inpatient units at community hospitals are ready for discharge to a less restrictive level of care; and, because those patients require additional services beyond those offered in the B-MHPRRs and S-MHPRRs. E-MHPRRs will have a higher staff-to-client ratio, a lower bed capacity, and will provide more intensive services than are currently offered in existing MHPRRs. **Some inpatients at the State-operated hospitals have been determined to be ready for discharge from the hospital, but no existing MHPRR is capable of providing the level and intensity of services that these individuals require.**

There is an urgent need to discharge individuals who are patients in psychiatric inpatient units at community hospitals who no longer require hospital level of care but whose needs exceed the abilities of a traditional group home. With a new opportunity for increased federal funding to provide a more intensive level of service and residential placement, the regulation will address an urgent community and public health need.

Consistent with the Administrative Procedures Act (APA), R.I. Gen. Laws 42-35-1 et seq., BHDDH is submitting these amended BHO regulations that will be available for public comment so that they may be promulgated through the regular APA process for regulatory approval.

For full regulatory analysis or supporting documentation contact the agency staff person listed above.