

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

RULES AND REGULATIONS

**LICENSING PROCEDURE AND PROCESS FOR FACILITIES AND PROGRAMS
LICENSED BY THE DEPARTMENT OF BEHAVIORAL HEALTHCARE,
DEVELOPMENTAL DISABILITIES AND HOSPITALS**

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**STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS**

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

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PREFACE

These Licensing Process and Procedure Regulations have been promulgated so as to create a uniform licensing process and procedure for all facilities and programs licensed by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals. They have been drafted in furtherance of the Department's statutory mandate and responsibilities to those persons whom we serve through the various Divisions within the Department. The Regulations are designed to promote and safeguard adequate facilities and programs in the interest of public accountability, health, safety and welfare.

These Licensing Process and Procedure Regulations only supersede prior regulations, rules and standards relating to the process and procedure by which the Department's Office of Licensure and Standards licenses, monitors and otherwise performs its administrative licensing function under Rhode Island General Laws Section 40.1-24-1 et seq.

The issuance and maintenance of a license authorizes an agency to operate specific types of programs and services. Under no circumstance does the issuance of a license commit the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals or the State of Rhode Island to fund any facility, program or Organization.

STATUTORY AUTHORITY

Authority for these rules, regulations and standards is found in Rhode Island General Laws section 40.1-24-1 et seq., Rhode Island General Laws section 40.1-24.5-1 et seq., RI General Laws section 40.1-8.5 et seq., and Rhode Island General Laws section 40.1-1-13(11) et seq.

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Section 1.0 Definitions

The following words and terms shall have the assigned meanings throughout these rules and regulations unless a specific context clearly indicates otherwise:

- 1.1 “***Abuse***” means any of the following:
 - A. ***Physical Abuse***: any assault or acts including but not limited to hitting, kicking, pinching, punching, slapping, or pulling hair.
 - B. ***Sexual Abuse***: any sexual activity such as oral/genital contact, sexual penetration or fondling and any other assault as defined in Rhode Island General Laws Section 11-37-1 et seq.
 - C. ***Sexual Exploitation***: any sexual contact between an employee, consultant or volunteer of the agency with an individual served.
 - D. ***Psychological Abuse***: intentionally engaging in a pattern of harassing conduct which causes or is likely to cause emotional or psychological harm, including but not limited to ridiculing or demeaning a person, making derogatory remarks, swearing, or threatening to inflict physical or emotional harm.
 - E. ***Material Abuse***: the illegal or improper use or exploitation of the individual and his/her funds, personal property or other resources including financial exploitation.
- 1.2 “***Adverse incident/adverse event***” is any occurrence that has caused, or has the potential to cause, serious harm or injury or death. “***Serious***” means any injury or harm that requires more than immediate on-site first aide; and/or that involves the response of public emergency services.
- 1.3 “***Agency***” shall be synonymous herein with the term Organization.
- 1.4 “***Behavioral Healthcare***” is the umbrella term that encompasses all mental health and substance use related assessment, treatment, prevention, and support services.
- 1.5 “***Behavioral Healthcare Organization***”, hereafter referred to as a BHO, means a public or private entity primarily constituted, staffed, and equipped to deliver mental health and/or substance abuse services to the general public.
- 1.6 “***Board***” means the Board of Directors or Governing Body of the Organization or Agency
- 1.7 “***Case management***” means services that are provided to assist a person in gaining access to medical, social, educational, residential, and other support services essential to meeting basic human needs and treatment goals.

- 1.8 **“Change in operator”** means a transfer of the authority of the Board of Directors, by the Board of an organization, to any other person or group of persons (excluding delegations of authority to the medical or administrative staff of the Organization).
- 1.9 **“Change in owner”** means:
- A. When an Organization is a partnership: the removal, addition, or substitution of a partner that results in the new partner acquiring a controlling interest in the Organization.
 - B. When an Organization is an unincorporated sole proprietorship: the transfer of the title and property to another person.
 - C. When an Organization is a corporation:
 - i. A sale, lease, exchange, or other disposition of all, or substantially all of the property and assets of the corporation.
 - ii. A merger of the corporation into another corporation.
 - iii. The consolidation of two (2) or more corporations resulting in the creation of a new corporation.
 - D. When an Organization is a for profit corporation: any transfer of corporate stock that results in a new person acquiring a controlling interest in such corporation.
 - E. When an Organization is a non-profit corporation: any change in membership that results in a person acquiring a controlling vote in such corporation.
- 1.10 **“Chief of Licensure and Standards”** means the Administrator, Office of Facilities & Program Standards and Licensure, BHDDH.
- 1.11 **“Licensing Office”** means the Office of the Department of BHDDH responsible for administering the licensure process.
- 1.12 **“CMHC”**, also known as a **CMHO**, means a private non-profit community mental health center Organization designated by the Director of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) to provide behavioral healthcare services in a specified geographical area according to Rhode Island General Laws section 40.1-8.5-1 et seq.
- 1.13 **“Community Psychiatric Supportive Treatment” (CPST)** is a service provided to individuals, their families, and other collaterals by mental health staff in accordance with an approved treatment plan, for the purpose of ensuring the individual’s stability and assisting with his or her recovery, by monitoring and providing the treatment and interventions necessary for the individual to manage illness symptoms and to deal with overall life situations.

- 1.14 **“Community Residence”** means a facility that operates twenty-four (24) hours a day to provide room, board, supervision, and supportive services to three (3) or more people who have developmental, mental, and/or substance-related disabilities. Homes owned by people with disabilities are not considered to be community residences.
- 1.15 **“Community Support Program”** means an organized group of behavioral healthcare treatment, support, and rehabilitation services designed to help adults (not in the custody of DCYF), who have a serious mental illness, function effectively in their communities.
- 1.16 **“Counseling”** means interacting with an individual to evaluate and treat a mental health and/or substance abuse issue. This type of service may include individual, family, and group therapy provided to the person served and significant others, according to the person’s treatment plan.
- 1.17 **“Crisis Intervention”** means short-term emergency services. Emergency and crisis shall be used interchangeably in these regulations.
- 1.18 **“Department”** means the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals.
- 1.19 **“Developmentally disabled adult”** means a person, eighteen (18) years old or older and not under the jurisdiction of the Department of Children, Youth, and Families who is either a mentally retarded developmentally disabled adult or is a person with a severe, chronic disability which:
- a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - b) Is manifested before the person attains age twenty-two (22);
 - c) Is likely to continue indefinitely;
 - d) Results in substantial functional limitations in three (3) or more of the following areas of major life activity: (i) self care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living (vii) economic self-sufficiency, and
 - e) Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services, which are of lifelong or extended duration and are individually planned and coordinated. For purposes of funding, it is understood that students enrolled in school will continue to receive education from their local education authority in accordance with § 16-24-1 *et seq.*
- 1.20 **“Developmental Disability Organizations (DDOs)”** means any organization licensed to provide services for adults with developmental disabilities in Rhode Island.
- 1.21 **“Division of Developmental Disabilities (DDD)”** means the Division of Developmental Disabilities within the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals.
- 1.22 **“Director”** means the Director of the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH).

- 1.23 **“Dispense”** means the preparation, administration, or delivery of a medication pursuant to the lawful order of a licensed healthcare provider.
- 1.24 **“Evidence-Based Practice”** is an intervention or service for which there is strong research demonstrating effectiveness in assisting persons to achieve desired outcomes.
- 1.25 **“Facility”** means the physical plant where programs and services are provided and/or overseen, or could be provided, and as defined in Rhode Island General Laws, section 40.1-24-1.
- 1.26 **“Individual”** or **“Individual Served”** means:
- a) a person who receives behavioral healthcare services or is assessed to need behavioral healthcare services based on the results of an initial assessment, or
 - b) a person who has been found eligible for services by the Department through its Division of Developmental Disabilities.
- The term **“person served”** shall be synonymous herein with the term **“individual”**.
- 1.27 **“Investigation”** means a systematic review and search for facts. It is objective in nature and is intended to identify facts, sequence and chronology of events, active failure(s), latent failure(s), and assessment of risk as pertinent to a specific adverse event.
- 1.28 **“Individualized Plan”** means the individual plan or individualized program plan or General Service Plan or other document, however named, which complies with the requirements of Rhode Island General Laws 40.1-26-2(9) and 40.1-21-3(7) and the DDD licensing regulations.
- 1.29 **“Medical Detoxification”** means the medical management of withdrawal symptoms (physiological and psychological) in a hospital or free standing, appropriately equipped setting.
- 1.30 **“Mistreatment”** means the inappropriate use of medications, isolation or use of physical or chemical restraints as punishment, for staff convenience, or as a substitute for treatment or care in conflict with a physician’s order, or in quantities which inhibit effective care or treatment, which harms or is likely to harm, the person served.
- 1.31 **“Neglect”** means the failure to provide treatment, care, goods or services necessary to maintain the health and safety of the person served; or the failure to report health problems of the person served or changes in his/her health conditions to an immediate supervisor or nurse; or the lack of attention to the physical needs of the person for personal care, meals and safety; or the failure to carry out a plan of treatment or care prescribed by a physician.
- 1.32 **“Opioid Treatment Program”** means a service that administers or dispenses an approved medication as maintenance or detoxification treatment to a person dependent on opiates. It provides, when appropriate or necessary, a comprehensive range of medical and rehabilitative services; is approved by the State authority and the

Substance Abuse and Mental Health Services Administration (SAMHSA); and is registered with the Drug Enforcement Administration to use opiate replacement therapy for the treatment of opiate dependence.

- 1.33 **“Organization”** means a BHO or DDO applying for issuance or renewal of a license and/or a licensee currently holding a BHO License or DDO License in Rhode Island.
- 1.34 **“Outcome”** means the result(s) of the performance or the non-performance of a function or process.
- 1.35 **“Outpatient Detoxification”** means the medical management, provided through outpatient services, of the physiological and psychological withdrawal symptoms of an individual to insure that medical or psychological complications do not develop.
- 1.36 **“Perpetrator”** means the individual who is suspected of violating a person’s rights. The perpetrator can include a staff person, family member, friend, other person served, or person from the community.
- 1.37 **“Premises”** means a tract of land and the buildings thereon where direct services are provided.
- 1.38 **“Priority Population”** means individuals eligible for specific Behavioral Health Care Services based on eligibility criteria set by the Department.
- 1.39 **“Program”** means a planned, service delivery system structured to provide specific components, which are responsive to the needs of those served.
- 1.40 **“Provider”** means a person or Organization that manages or delivers clinical and/or support services to persons served.
- 1.41 **“Program Sponsor”** is the person deemed to be responsible for the daily operation of an opioid treatment program and who under Federal certification assumes responsibility for all its employees, including any practitioners, agents, or other persons providing medical, rehabilitative, or counseling services at the program or any of its medication units. The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director.
- 1.42 **“Recovery”** means a process of overcoming both physical and psychological symptoms and/or behaviors associated with a mental illness or a dependence on a drug or drugs of abuse.
- 1.43 **“Shall”** means an obligation to act is imposed.
- 1.44 **“Staff”** means any employee, intern, trainee, independent contractor, or volunteer performing a service or activities for the Organization and for meeting the needs of individuals served for which competent performance is expected.
- 1.45 **“State Methadone Authority”** is the Department of BHDDH.

- 1.46 **“Treatment” or “Care”** means a set of individually planned interventions, training, rehabilitation, or supports that help an individual work toward his or her recovery goals and obtain or maintain an optimal level of functioning, reduce the effects of disability or discomfort, or ameliorate symptoms, undesirable changes or conditions specific to physical, mental, behavioral, or social functioning.
- 1.47 **“Violation of Human Rights”** means any action or inaction, which deprives the person served of any of his or her legal rights, as articulated in law or in these regulations or in other applicable Department Regulations.

Section 2.0 Applicability

These Rules, Regulations, and Standards apply to all facilities, programs and organizations that provide services for adults with developmental disabilities or mental health services for adults who are not in the custody of the Department of Children, Youth, and Families (DCYF) and/or substance abuse services for children and adults.

These Rules and Regulations do not apply to the following:

- A) Health Care Facilities licensed by the Rhode Island Department of Health pursuant to Rhode Island General Laws section 23-17-1 et seq.
- B) Sheltered Care Facilities licensed by the Department of Health pursuant to Rhode Island General Laws section 23-17.4-1 et seq.
- C) Facilities, programs, and agencies licensed by the Rhode Island Department for Children, Youth, and Families pursuant to Rhode Island General Laws, section 42-72-5(8).
- D) Facilities, programs, or Organizations already licensed or certified by any other appropriate state agency, pursuant to Rhode Island General Laws.
- E) Organized ambulatory care facilities owned and operated by professional service corporations as defined in Rhode Island General Laws, section 7-5.1-1 et seq., (the "Professional Service Corporation Laws").
- F) A private practitioner's (physician, dentist, or other health care provider) office.
- G) Group of practitioners' offices (whether owned and/or operated by an individual practitioner, alone or as a member of a partnership, professional service corporation, Organization, or association).

All references within these Regulations are incorporated by reference and have the same force and effect as if promulgated herein.

The Department shall report substantial violations of any and all applicable statutes, rules or regulations to the appropriate state or federal department, agency or authority.

Section 3.0 Application for Licensure, Renewal or Change in Licensure Status

3.1 General Requirements

To apply for a license, renew an existing license or remove or replace the provisional or conditional status of a license, an applicant or licensee shall contact the Department's Office of Licensure and Standards. The Office of Licensure and Standards shall provide an applicant or licensee with the appropriate Departmental license forms. Application for a license to conduct, maintain or operate a BHO or to conduct, maintain or operate a DDO shall be made to the Department upon forms provided by the Department and shall contain such information as the Department requires including, but not limited to, evidence of ability to comply with any and all applicable Department rules and regulations. The Department shall either deny an application or renewal, or shall issue or renew a provisional license, conditional license or license. Such license shall be issued to the applicant or licensee for the operation of specific programs and shall not be transferable or assignable except with the written approval of the Director. The Department shall determine, in part or in whole, which of those applied for services, programs, and/or facilities or premises, included by the Organization on the application for licensure issuance or renewal, shall be granted.

- 3.1.1 Effective June 1, 2013, there is a moratorium on the licensing of new Developmental Disability Organizations that seek to provide Center Based Day Program Services. The Department will not issue a license to any agency that is not currently licensed in Rhode Island by the Department as a Developmental Disability Organization and that is seeking to provide home based, center based, and/or sheltered workshop day program services. The Department shall only license new agencies seeking to provide day program services that have a full continuum of supports and the capacity to provide Supported Employment Services and Community Based Day Program Services. This licensing moratorium does not impact Developmental Disability Organizations currently licensed by the Department to provide any services to adults with developmental disabilities in Rhode Island. Please see Appendix 1.

3.2 Behavioral Health

An Organization that wishes to provide behavioral healthcare services may apply for a Behavioral Healthcare Service License for any of the following service categories:

- a) General Outpatient Services
- b) Services for persons with co-occurring Mental Health and Substance Use Disorders: Integrated Dual Diagnosis Treatment
- c) Medication and Laboratory Services
- d) Case Management Services
- e) Community Psychiatric Supportive Treatment
- f) Intensive Outpatient Services
- g) Community Integration Services
- h) Supported Housing Services
- i) Residential Services
- j) Outpatient Detoxification Services
- k) Medical Detoxification Services
- l) Opioid Treatment Programs

3.2.1 A Behavioral Healthcare Organization (BHO) that is designated by the Director as a Community Mental Health Center (CMHC), according to Rhode Island General Laws section 40.1-8.5-1 et seq., shall apply for a BHO/CMHC License and is required to provide the CMHC services identified below and may, in addition to the CMHC services, apply to provide any of the BHO services listed above:

- a) 24-hour emergency service,
- b) Crisis intervention and stabilization services for adults who reside in the designated catchment area of the CMHC and who do not have a current private behavioral healthcare provider,
- c) Emergency assessment and crisis intervention for individuals who present in crisis in the catchment area of the CMHC but reside in another catchment area,
- d) Assessment and treatment services for adults who reside in the CMHC's catchment area to include, but not be limited to, services for:
 - i. Individuals who meet the eligibility criteria for Community Support Services.
 - ii. Individuals discharged from psychiatric inpatient treatment
 - iii. Persons who have been diagnosed with a co-occurring mental health disorder and substance abuse or dependence.
- e) Emergency assessment and crisis intervention for individuals being considered for admission to mental health inpatient facilities designated by the Department, to determine the appropriateness of such admission. f) Community Support Programs.
- g) Assertive Community Treatment and/or intensive outpatient treatment for persons eligible for Community Support Services who are in need of intensive treatment.

3.2.2 An Organization, not designated as a CMHC, that was approved by the Director to provide RIACT-I services and/or a Community Support Program prior to the promulgation of these regulations, may apply to provide that service.

3.2.3 A license addendum shall list the licensed services, the population to be served, the specific locations where services are provided, and any license stipulations. For residential services, the license shall specify the maximum number of persons each location may serve.

3.2.4 A license to operate an Opioid Treatment Program requires:

- a) Registration with the Rhode Island Department of Health
- b) Registration with the Federal Drug Enforcement Administration
- c) Compliance with all applicable Department Regulations.
- d) Accreditation by an accrediting Organization approved by the Substance Abuse and Mental Health Services Administration (SAMHSA).
- e) Compliance with all applicable federal regulations
- f) The Opioid Treatment Provider shall provide the Department with copies of all federal and state licenses, certification and documentation on an ongoing basis throughout the duration of the license.
- g) The Opioid Treatment Provider shall immediately inform the Department of any changes in its status with other relevant state and federal agencies.

3.2.5 In accordance with the provisions of Rhode Island General Laws section 21-28-3.21 entitled "Operation of Treatment and Rehabilitation Programs for Drug Dependent Persons"): The administering or dispensing directly, but not prescribing, of any controlled substance listed in any schedule to a drug dependent person for the purpose of continuing his or her dependence upon such drugs in the course of conducting an authorized clinical investigation in the development of a treatment and rehabilitation program for drug dependent persons, shall be deemed to be within the meaning of the term "in the course of professional practice", provided:

- a) That approval is obtained prior to the initiation of the program by submission of an application therefore to proper federal authorities and in addition thereto, and
- b) That a license to operate the program within the State of Rhode Island be obtained from the Director of the Rhode Island Department of Health.

3.3 Support to Adults with Developmental Disabilities

To provide services to adults with developmental disabilities a certified DDO shall apply for both an agency license and a service license in one (1) or more of the following service categories:

3.3.1 Residential Support Services:

- a) Community Residences;
- b) Non-congregant settings; and
- c) Shared Living arrangements.

3.3.2 Community Based Day Service Programs:

- a) Day program, and
- b) Supported Employment.

3.3.3 Self-directed care (fiscal intermediary).

3.3.4 Community-Based Supports Service.

3.3.5 DDOs that provide services to adults with developmental disabilities shall meet all of the requirements contained in the *Rules and Regulations for the Licensing of Developmental Disability Organizations*. DDOs shall hold agency licenses and specific service licenses and may only be reimbursed for supports and services for which they hold a service license.

3.3.6 A license addendum shall list the licensed services, the types of services provided, the specific locations where services are provided, and any license stipulations. For residential services, the license shall specify the location, number of persons served at the location and the type of service.

Section 4.0 License Issuance and Renewal and Initial Licensure Review

4.1 General Requirements

An application for licensure is required for an initial license; for license renewal; for changes in owner, program sponsor, operator, or lessee; and when there is a legal affiliation of two (2) or more Organizations.

- 4.1.1 If an applicant fails to provide complete, accurate, and truthful information during the application and licensing process, the Department may cause licensure to be delayed, or may deny or revoke the license.
- 4.1.2 Any applicant or person with a controlling interest in a BHO or DDO will be considered responsible for acts occurring during, and relating to, the operation of licensed services or organization for purpose of licensing.
- 4.1.3 The Department may consider the background and operating history of the applicant(s) and each person with a controlling ownership interest when determining to issue a license.
- 4.1.4 When an application for initial licensure is made by an applicant(s) who owns or operates other licensed Community Residences or facilities in Rhode Island, the Department may deny the license if the applicant's existing Community Residences or facility(ies) are not, or have not been, in substantial compliance with the applicable Rhode Island licensing authority regulations and/or health and safety standards.
- 4.1.5 All applicants must fulfill the applicable requirements described below.

4.2 Behavioral Health Organizations

The Department shall specifically consider and it shall be the applicant's burden of proof to provide evidence of:

- 4.2.1 The commitment, competence, and standing in the community of the proposed owners, operators, program sponsors or directors of the BHO as evidenced by a previous ability or by a proposed plan which demonstrates the following:
 - a) The provision of services that demonstrate evidence-based practices, and promote the recovery of persons served,
 - b) The provision of safe and adequate treatment for individuals receiving the BHO services,
 - c) The encouragement, promotion, provision, and implementation of an effective performance improvement process in all aspects of BHO services,
 - d) Reasonable access to BHO services, and the provision of treatment for priority populations identified by the Department that is or shall be served by the BHO.
 - e) The Agency's management structure has the capacity to administer the overall operation of the agency,
 - f) The staff are appropriately trained and qualified,
 - g) The physical plant for programs meets all applicable fire and safety standards.
- 4.2.2 The applicant's proposed financial plan, which demonstrates the financial viability of the applicant and/or licensee.
 - a) The Department may require additional financial indicators that are necessary to establish that the applicant is in good financial standing.
- 4.2.3 A notarized listing of names and addresses of all owners, officers, and directors, whether individual, partnership, or corporation, with percentages of ownership designated, shall be provided with every application for licensure.

- a) If the Organization is organized as a for-profit corporation, the list shall also include all officers, directors, and other persons or any subsidiary corporation owning stock, and all partners if the Organization is organized as a partnership.

4.3 Agencies Providing Services to Adults with Developmental Disabilities.

The Department shall specifically consider and it shall be the applicant's burden of proof to provide evidence of:

4.3.1 The commitment, competence, and standing in the community of the proposed owners, operators or directors of the Developmental Disabilities Organization as evidenced by a previous ability or by a proposed plan to demonstrate the following:

- a) The provision of services that demonstrates that the DDO's overall philosophy promotes and recognizes that individuals should have the opportunity to be included in the ordinary fabric of society, and is consistent with the Department's mission and purpose,
- b) The provision of safe and adequate treatment for individuals receiving developmental disability services,
- c) The encouragement, promotion, provision, and implementation of an effective performance improvement process in all aspects of services to adults with developmental disabilities,
- d) Responsiveness to the needs of people with Developmental Disabilities and their families.
- e) The DDO's management structure has the capacity to administer the overall operation of the agency,
- f) The staff are appropriately trained and qualified,
- g) The physical plant for programs meets all applicable fire and safety standards.

4.4 The applicant's proposed financial plan, which demonstrates the financial viability of the applicant and/or licensee.

- a) The Department may require additional financial indicators that are necessary to establish that the applicant is in good financial standing.

4.5 A notarized listing of names and addresses of all owners, officers, and directors, whether individual, partnership, or corporation, with percentages of ownership designated, shall be provided with every application for licensure.

- a) If the Organization is organized as a for-profit corporation, the list shall also include all officers, directors, and other persons or any subsidiary corporation owning stock, and all partners if the Organization is organized as a partnership.

Section 5.0 Mergers, Affiliations, Change of Ownership or Operator

- 5.1 The Department shall be notified of any proposed mergers, affiliations or change of ownership, program sponsor, or operator at least ninety (90) days prior to that proposed merger, affiliation or change. Any such change or action will require the application for and issuance of a new license.
- a) An Opioid Treatment Facility shall submit an application for a new license if there is a change in the Program Sponsor and/or Owner and/or Operator under either the State license or the Federal certification standards, Federal Regulations, or the DEA. The Department shall inform the applicable Federal Authorities and accreditation bodies if the Program Sponsor, Owner and/or Operator of a licensed Opioid Treatment Facility changes. Change of Program Sponsor under the various applicable state federal regulations and accreditation requirements shall immediately necessitate application for a new license from the Department.
- 5.2 In cases where the application involves a merger, consolidation or otherwise legal affiliation of two (2) or more Organizations, the application shall include the proposed immediate and long term plans of such Organizations with respect to the programs to be offered and services to be provided by such Organizations as a result of the merger, consolidation or otherwise legal affiliation.

Section 6.0 Term of License

- 6.1 Upon receipt and approval of an application for a license, the Department shall issue a license or renewal thereof for a period of no more than two (2) years, if the applicant meets the requirements of the rules and regulations herein and the other applicable standards and requirements contained in other regulations.
- 6.2 A license shall be issued to an Organization for specific services at a designated location or locations.
- a) A license shall not be transferable, except with the written approval of the Department. The license shall be issued only for the individual owner, program sponsor, operator, or lessee or to the corporate entity responsible for its governance.
- b) An Organization must apply for approval from the Department to offer approved services at proposed new locations.
- 6.3 A license continues in effect after the end of the licensure period if the Organization has submitted a timely and sufficient renewal application and there are no grounds to deny the license. (Rhode Island General Laws Section 42-35-14).
- 6.4 The Department shall be notified in writing of any plans to suspend services or end services or to close a program at least ninety (90) days prior to any proposed suspension, cessation or closure.

- 6.5 The license shall be returned to the Department immediately upon surrender, suspension or revocation of the license.

Section 7.0 Provisional License

- 7.1 A Provisional License shall be issued to a new Organization that demonstrates compliance with administrative and policy regulations but has not demonstrated compliance with all the regulations.
- a) A Provisional License shall not exceed six (6) months.
 - b) A Provisional License may be renewed. However, a Provisional License and any renewals shall not exceed twelve (12) successive months for all provisional licenses and renewals combined.
 - c) An Organization holding a Provisional License shall demonstrate ongoing progress toward compliance with all applicable regulations.
 - d) A provisional license will be issued only if such issuance will not result in undue hazard to residents or persons served, as determined by the Director, or by the State Fire Marshal, or by the State Fire Marshal's delegated authority.

Section 8.0 Conditional License

- 8.1 A Conditional License may be issued to an Organization that has demonstrated an inability to maintain compliance with regulations; has a serious violation of human rights or applicable regulations; has multiple violations of human rights or licensing regulations; has demonstrated conduct or practice found by the Director to be detrimental to the welfare of the persons served; or has failed to comply with a previous plan of correction.
- 8.2 A Conditional License may be issued at any time during either the issuance or renewal process or during the term of a license at the discretion of the Director.
- 8.3 The term of a Conditional License may not exceed six (6) months.
- 8.4 A Conditional License may be renewed; however, a Conditional License and any renewals shall not exceed twelve (12) successive months for all Conditional Licenses and renewals combined.
- 8.5 An Organization holding a Conditional License shall demonstrate progress towards compliance with the regulations.
- 8.6 The Director may issue a Conditional License if the Director determines that denial of a renewal application or Revocation of an existing license would not be in the best interests of the persons served by the licensee or in the best interests of the community served by the licensee. The Director shall state the requirements of and orders with which a licensee must comply in order to receive a Conditional License in lieu of denial of a renewal application or Revocation.

- 8.7 A Conditional License shall be issued only if such issuance shall not result in undue hazard to residents or persons served, as determined by the Director or by the State Fire Marshal or the State Fire Marshal's delegated authority.

Section 9.0 License Stipulations and Restrictions

- 9.1 A license may bear stipulations. Stipulations may be limitations on the Organization or may impose additional requirements. Stipulations may be added at any time at the discretion of the Director. Terms of any such stipulations shall be listed on the Organization's license.

Section 10.0 License Modification

- 10.1 Upon written request of the Organization, the license may be modified during the term of the license with respect to the populations served, the programs and services offered, the locations where programs and services are provided, the maximum number of persons served in residential programs and homes, and any stipulations. Approval of such request shall be at the sole discretion of the Director.
- 10.2 Any change which requires a license modification shall not be implemented prior to approval by the Director.

Section 11.0 Suspension, Revocation, Curtailment and Denial

- 11.1 The Department may deny, suspend, annul, withdraw, amend, refuse to issue or renew, or revoke the license of, or the operation of a specific program authorized under the license of, or curtail some or all of the activities of, any Organization if it finds any or all of the following:
- a) That the Licensee has failed to comply with any applicable rules and regulations pertaining to the licensing of an Organization, or
 - b) That after twelve (12) successive months of Conditional License status the Licensee has failed to meet the conditions and stipulations placed upon its license by the Director, or
 - c) That the Licensee has failed to work towards compliance while under Conditional License Status or that continuation of the Conditional License would place individuals health and safety in undue hazard, or
 - d) That the Provider or any of its staff was found, after an investigation, to have committed gross neglect of an individual it serves or has served, or
 - e) That the Provider or any of its staff knowingly or unknowingly permitted grave physical harm or sexual, physical, emotional, or financial abuse or exploitation of an individual to occur, or by reason of failure to implement corrective actions made or approved by the Department after investigations of previous allegations of abuse, or by reason of reckless disregard for the safety or welfare of any individual, or

- f) That the nature or number of violations revealed by any type of inspection or investigation of a community residence poses a direct risk to the life, health, or safety of a resident, or
- g) That the Organization has failed to report and/or investigate serious incidents and/or adverse events or incidents and allegations of abuse and neglect reportable under Rhode Island General Laws section 40.1-27-1 et seq. or applicable regulations promulgated by the Department, or
- h) That the Organization has failed to comply with a Compliance Order, and/or has received two (2) such Orders in a twelve (12) month period, or
- i) That the Licensee has refused to admit at anytime an employee of the Department authorized by the Director to investigate, audit, or monitor the Organization, or
- j) That upon inspection when there is no reasonable and substantial evidence that the program is in operation and due notice and opportunity for hearing has been given pursuant to the provisions of Rhode Island General Laws Section 42-35-9.

Section 12.0 Reports of Deficiencies

- 12.1 Reports of deficiencies noted in inspections conducted in accordance with these and other applicable Regulations, and results of any Departmental investigation, and plans of correction or compliance orders as described herein, shall be maintained on file in the Department, and shall be considered by the Department in rendering determinations to deny, condition, limit, suspend or revoke the license or to curtail certain specific activities and programs of an Organization.

Section 13.0 Suspension in Emergencies

- 13.1 If the Director finds that public health, safety or welfare requires emergency action and the Department incorporates such findings in an order, the Department may order summary suspension of the license or curtailment of activities as enumerated above, pending proceedings for revocation; or other action in accordance with Rhode Island General Laws section 42-35-14(c).

Section 14.0 Licensing Actions

- 14.1 The Director may take appropriate action from within the following array of sanctions for dealing with violations of the Department’s applicable rules and regulations:
 - a) As a result of the denial of an initial application, or of an application for licensure renewal, the rights and privileges attendant upon licensure will not accrue to an Organization.
 - b) An immediate compliance order may be issued to an organization, if the Director determines that immediate action is necessary to protect the health, welfare or safety of the public.

- c) A Conditional License may be issued to an Organization that has demonstrated an inability to maintain compliance with regulations; has a serious violation of human rights or applicable regulations; has multiple violations of human rights or licensing regulations; has demonstrated conduct or practice found by the Director to be detrimental to the welfare of the persons served; or has failed to comply with a previous plan of correction
- d) If it is determined that revocation of an existing license would not be in the best interests of the persons served by the licensee or in the best interests of the community served by the licensee, the Director shall list the requirements with which the licensee must comply in order to receive a Conditional License in lieu of revocation.
- e) As a result of an order to curtail any or all activities of an Organization, a licensee may be ordered to admit no additional persons for treatment within the Organization or within one or more of its programs, and/or to take any other corrective action necessary to secure compliance with the requirements established by the applicable Department rules and regulations.
- f) As a result of suspension, an Organization shall be restrained from admitting any individuals to the Organization or to one or more of its programs during the period of suspension and shall be required to transfer the respective persons served to another Organization during the period of suspension. The sanctions imposed as a result of suspension are so imposed until such time as the Department determines compliance with the regulations, or until the license is revoked.
- g) As a result of a license revocation, an Organization loses all rights and privileges related to licensure. The Organization will be restrained from admitting any new clients, and will be required to transfer all clients. If the Organization continues to operate after license revocation, the Organization will be subject to prosecution for operation without a license (Rhode Island General Laws section 40.1-24-14). License revocation is considered to be permanent.
- h) The appropriate state and federal agencies and national accrediting Organizations shall be notified of any action taken by the Department pertaining to denial, suspension, or revocation of license or curtailment of activities.

14.2 The Department may take licensing action against the license in whole and/or in part:

- a) The Department may curtail, revoke, suspend or place on conditional status certain licensed services, programs and/or facilities or premises without revoking or otherwise taking sanctions against the Organization's license as a whole.
- b) The Department shall determine, in part or in whole, which of those applied for services, programs, and/or facilities or premises [included by the organization on the application for licensure issuance or renewal] shall be granted.

Section 15.0 Right of Appeal

- 15.1 A licensee has the right to appeal any imposed stipulation, denial or refusal to issue a license, denial or refusal to renew a license, sanction or action proposed by the Department against the license. The Department shall notify the Licensee by in hand service, registered mail or certified mail, setting forth reasons for the proposed action, and the applicant or licensee shall be given an opportunity for a prompt and fair hearing in accordance with Rhode Island General Laws section 42-35-9 and pursuant to the provisions contained herein and in accordance with the Rules and Regulations promulgated by the Department.

Section 16.0 Monitoring and Auditing

- 16.1 The Department shall make or cause to be made such inspections and investigations that it deems necessary in accordance with the Department rules and regulations.
- a) Authorized persons from the Department shall have free access to the grounds, buildings, and all books and records relating to any Organization.
 - b) The Department shall be entitled to receive from all persons connected in any way with the Organization, such information and assistance for any examination or inquiry as the Director may require.
 - c) The Department shall investigate complaints regarding potential violations of licensing regulations. Organizations shall cooperate fully with any complaint investigation.
- 16.2 Any non-compliance with the regulations cited herein shall constitute a valid ground for licensure action.
- 16.3 If an Organization has received certification from an acceptable national accreditation body, the Department may substitute relevant accreditation review findings for related licensure requirements.
- a) The Department shall annually issue those elements of the Rules and Regulations for Behavioral Health Organizations.
 - b) The following documentation will be required from the Organization for consideration:
 - i. A copy of the certificate awarded by the accrediting body.
 - ii. The written report from the accrediting body regarding the results of its survey.
 - iii. The Organization's response, if any, to the report of results from the accrediting body.
- 16.4 The Department may deem the Organization in compliance with relevant licensure standards, in part or in whole, after consideration of the extent of compliance with the accrediting body's standards.

Section 17.0 Plans of Correction

- 17.1 The Department shall notify the Executive Director or other Organization legal authority of violations of any Department Rules and Regulations through a notice of deficiencies which shall be sent to the Organization, unless the Director determines that immediate action is necessary to protect the health, welfare, or safety of the public (or any member thereof) through the issuance of an immediate Compliance Order.
- 17.2 If the Department rejects the plan of correction, or if the Organization does not provide a plan of correction within the stipulated period, or if the Organization whose plan of correction has been approved by the Department fails to execute its plan within a reasonable time, as determined by the Department, the Department may invoke the sanctions enumerated herein.
- 17.3 An Organization that receives a notice of deficiencies must submit a plan of correction, which shall include time frames for completion, to the Department within thirty (30) days of the date the Organization receives notice of the deficiencies. The plan of correction may include any requests for variances in accordance with the Variance Procedures requirements.
- a) The Department may determine that a Plan of Correction must be submitted within less than the thirty (30) day time frame.
 - b) The Department may request an amended plan of correction. The amended plan of correction must be submitted to the Department within ten (10) business days of the date of the Organization's receipt of the request for an amended plan of correction.
 - i. An immediate Compliance Order shall identify violations of the applicable licensing standards and instruct the Organization to immediately comply with such order. A copy of the compliance order shall be maintained in the agency record file of the Licensing Office.
- 17.4 If the Organization is aggrieved by the action of the Department, the Organization may appeal the decision and request a hearing in accordance with Rhode Island General Laws section 42-35-1 et seq.
- a) The notice of the hearing to be given by the Department shall comply in all respects with the provisions of Rhode Island General Laws section 42-35-1 et seq. The hearing shall in all respects comply with the provisions therein.

Section 18.0 Variance Procedures

- 18.1 The Department may, within its discretion and for good reason, grant a variance to specific requirements contained in these regulations. A variance will be granted only when the Department determines that the health, safety or welfare of individuals or the quality of services or treatment provided to individuals is not adversely affected. The Department reserves the right to revoke a variance if the conditions required by the variance are not met.
- 18.2 An Organization may submit a request for a variance in writing to the Office of Licensure and Standards. A variance for a specific section of these regulations shall be granted if both of the following conditions exist:
 - a) There is an alternative for providing an equivalent level of health, safety, well-being, and treatment for the persons served.
 - b) There are unusual or special circumstances that justify the variance.
- 18.3 Such written request shall include a specific reference to the section of the regulation for which a variance is sought, a full explanation of why the variance is necessary, and a full explanation of alternative provisions or procedures proposed by the Organization.
- 18.4 The Organization may implement a variance only after it has received written approval from the Department. A variance may be time limited. A variance may have other attached conditions or stipulations.
- 18.5 Within thirty (30) days of the receipt of the variance request, unless additional time is required, the Department of BHDDH Variance Review Committee will review the request and provide a written decision to the licensee or applicant.
 - a) Appeal of the denial of a variance request shall be made in writing to the Director. The Director's decision is final.
- 18.6 No provision or procedure prescribed by state or federal statute shall be waived.

Section 19.0 Rules Governing Practices and Procedures

- 19.1
 - a) All hearings and reviews required pursuant to these rules and regulations shall be held in accordance with the provisions of Rhode Island General Laws, section 42-35-1 et seq. and the Department's applicable Rules and Regulations.
 - b) The Department shall send the Licensee or applicant notice by registered or certified mail or personal service and shall set forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days from the date of such mailing or service, at which time the applicant or licensee is given the opportunity for a prompt and fair

hearing. On the basis of any such hearing, or upon default of the applicant or licensee, the Department shall make a determination specifying its findings of fact and conclusions of laws. A copy of the determination shall be sent by registered or certified mail, or served personally upon the applicant or licensee. The decision denying, suspending, or revoking the license or application shall become final thirty (30) days after it is so mailed or served unless the applicant or licensee within such a thirty (30) day period, appeals the decision to Superior Court, pursuant to Rhode Island General Laws, section 40.1-24-8. The procedure governing hearings authorized by this section will be in accordance with rules promulgated by the Department.

Section 20.0 — Operation Of Unlicensed Agency

- 20.1 Any person establishing, conducting, managing or operating any agency as defined by these rules, regulations and standards without a license shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six (6) months or both at the discretion of the court for each offense (Rhode Island General Laws section 40.1-24-14).

Appendix 1

<u>RHODE ISLAND DEPARTMENT OF BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND HOSPITALS</u>		
<u>POLICY AND PROCEDURE</u>		
<u>TITLE:</u> Moratorium on the Licensing of New Developmental Disability Organizations Seeking to Provide Center Based Day Program Services		<u>POLICY NO:</u> Licensing # 3
<u>RESPONSIBILITY:</u> Licensing	<u>DATE APPROVED:</u> May 2013 <u>DATE REVISED:</u> NA	<u>PAGE(s):</u> 1

Purpose: In furtherance of the Department’s Employment First Initiative, the Department is instituting a moratorium on the licensing of new Developmental Disability Organizations seeking to provide Center Based Day Program Services.

This moratorium will promote the expansion of Supported Employment Services and Community Based Day Program Services to afford Participants more opportunities for employment in integrated settings, as well as, more opportunities for full community inclusion and integration.

Authority: “Rules and Regulations Licensing Procedure and Process for Facilities and Programs Licensed by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals,” “Rules and Regulations for the Licensing of Developmental Disability Organizations,” and the Rhode Island General Laws § 40.1-24-1 et. seq.

Policy: Effective June 1, 2013, there is a moratorium on the licensing of new Developmental Disability Organizations that seek to provide Center Based Day Program Services. The Department will not issue a license to any agency that is not currently licensed in Rhode Island by the Department as a Developmental Disability Organization and that is seeking to provide home based, center based, and/or sheltered workshop day program services. The Department shall only license new agencies seeking to provide day program services that have a full continuum of supports and the capacity to provide Supported Employment Services and Community Based Day Program Services.

This policy does not impact Developmental Disability Organizations currently licensed by the Department to provide any services to adults with developmental disabilities in Rhode Island.

Procedure: Any application submitted to the Department requesting licensure as a new Developmental Disability Organization that seeks to provide home based, center based, and/or sheltered workshop day program services shall be denied.