

1 performing payroll and other employment-related functions on behalf of a participant as set forth
2 in the implementing regulations for the self-directed supports program.

3 (5) "Participant" means an adult who has a developmental disability as defined by § 40.1-
4 21-4.3(1) and has been determined by the state to be eligible for Medicaid-funded long-term
5 services and supports under the Medicaid state plan and/or the RI section 1115 waiver
6 demonstration and/or Medicaid authorities created in the future.

7 (6) "Participant's representative" means a participant's legal guardian or a person who has
8 been designated by the participant or otherwise has the authority and responsibility to act on behalf
9 of a participant with respect to the provision of self-directed services, including the developmental
10 services subject to this chapter.

11 (7) "Provider representative" means a provider organization that is certified as the exclusive
12 negotiating representative of self-directed direct support professionals as provided in § 40.1-22.3-
13 7.

14 (8) "Secretary" means the secretary of the executive office of health and human services
15 (EOHHS).

16 (9) "Self-directed direct support professional" means an individual selected by and working
17 under the direction of a self-directed supports participant or the participant's duly authorized
18 representative to provide self-directed personal care services to the participant in accordance with
19 a person-centered plan and the implementing regulations promulgated for the program by the
20 director. Self-directed direct support professional does not mean or include an employee of a DDO,
21 subject to the DDO's direction and control commensurate with DDO employee status.

22 (10) "Self-directed personal care services" means home and community-based personal
23 care and in-home support services a participant is authorized to self-direct to meet their daily living
24 needs, function adequately at home, safely access the community, or other nonprofessional services
25 under the self-directed supports program or any similar program that may provide similar services
26 in the future under the Medicaid state plan, section 1115 demonstration waiver, or future Medicaid
27 authorities promulgated by the secretary or director.

28 **40.1-22.2-3. Scope of coverage.**

29 Self-directed direct support professionals may provide all self-directed personal care
30 services to the extent the applicable federal and state laws and rules and regulations allow.

31 **40.1-22.2-4. Use of employee workforce.**

32 (a) The state's ability to afford participants and participants' representatives who choose
33 not to employ a self-directed direct support professional, or are unable to do so, the option of
34 receiving personal care services through the employees of provider agencies, rather than through a

1 self-directed direct support professional, shall not be restricted.

2 (b) Nothing in this chapter shall restrict the state's ability to afford self-directed supports
3 participants with the freedom of choice guaranteed under Title XIX of the Social Security Act, 42
4 U.S.C. § 1396 et seq., to enter into service delivery agreements with any authorized Medicaid
5 provider.

6 **40.1-22.2-5. Duties of the department of behavioral healthcare, developmental**
7 **disabilities and hospitals.**

8 (a) Notwithstanding the state's obligations to meet and negotiate under chapter 7 of title 28
9 ("labor relations act"), nothing in this chapter shall be construed to make self-directed direct support
10 professionals employees of the state for any purpose, including for the purposes of eligibility for
11 the state employee pension program or state employee health benefits.

12 (b) The director has authority over the terms and conditions of self-directed direct support
13 professionals' employment, including compensation as required under § 40.1-22.2-6, payment,
14 benefit terms, provider qualification standards, other appropriate terms and conditions for the
15 workforce of self-directed direct support professionals without infringing on participants' or
16 participant representatives' rights and responsibilities to hire, direct, supervise, and/or terminate the
17 employment of their self-directed direct support professionals, and orientation, training, and the
18 operation of a registry as required under § 40.1-22.2-7.

19 (c) The director's authority in subsection (b) of this section only applies to self-directed
20 personal care services and is subject to the state's obligation to meet and negotiate with a provider
21 representative pursuant to § 40.1-22.3-3.

22 **40.1-22.2-6. Wage ranges.**

23 (a) The state shall set wage ranges for all self-directed direct support professionals. All
24 self-directed personal care services performed by self-directed direct support professionals shall be
25 compensated at a wage that is within the range set by the director for the services; provided,
26 however, the participant may choose what wage to pay within the applicable range.

27 (b) The wage range shall be the subject of collective bargaining as provided in this chapter.
28 However, such collective bargaining shall be related solely to self-directed personal care services.
29 All other self-directed services available to self-directed supports participants other than personal
30 care and in-home support services are excluded from collective bargaining.

31 (c) The provisions of this section shall take effect upon the certification of a provider
32 representative as provided in § 40.1-22.3-13.

33 **40.1-22.2-7. Other duties of the director of behavioral healthcare, developmental**
34 **disabilities and hospitals.**

1 (a) The director shall determine by rule or regulation that self-directed direct support
2 professionals selected by self-directed supports participants are required to complete an orientation,
3 pursuant to the director's authority under § 40.1-21-12. The director shall determine by rule or
4 regulation the specific types of education, experience, or training that shall be required for a self-
5 directed direct support professional to be included on a registry of persons qualified to be self-
6 directed direct support professionals. The provisions of this section shall be collectively bargained
7 with the provider representative.

8 (1) Representatives of the provider representative shall be permitted to attend and present
9 information about the provider representative at educational and training programs presented by
10 the John E. Fogarty Institute of Rhode Island pursuant to § 40.1-21-6. The John E. Fogarty Institute
11 of Rhode Island shall provide the provider representative with a schedule of educational and
12 training programs at least two (2) weeks in advance. The provider representative shall be authorized
13 to provide self-directed direct support professionals with access to more training or education than
14 is minimally required by the director. Nothing in this chapter prohibits a self-directed supports
15 participant from requiring a self-directed direct support professional to complete more training or
16 education than is minimally required by the director.

17 (b) The director shall maintain, either directly or through a contracted vendor, a registry
18 for self-directed direct support professionals pursuant to the authority provided under § 40.1-21-12
19 and shall collaborate with the provider representative to maintain this registry. This registry shall
20 be consolidated with the registry established for the personal choice program pursuant to § 40-8.15-
21 15.

22 (c) The provisions of this section shall take effect upon the certification of a provider
23 representative as provided in § 40.1-22.3-13.

24 **40.1-22.2-8. Authority of the department of administration.**

25 In accordance with chapter 22.3 of this title, the director of the department of
26 administration shall have the authority to:

27 (1) In coordination with the director, meet and negotiate with any provider representative
28 chosen pursuant to § 40.1-22.3-2(a);

29 (2) In coordination with the director, negotiate over any of the topics in § 40.1-22.3-2(a)
30 and any other appropriate matters governing the workforce of self-directed direct support
31 professionals without infringing on participants' or their responsible parties' rights and
32 responsibilities to hire, direct, supervise, or terminate the employment of their self-directed direct
33 support professionals; and

34 (3) In coordination with the director, execute a collective bargaining agreement, subject to

1 [any approval required under § 40.1-22.3-5.](#)

2 **40.1-22.2-9. Severability.**

3 [Should any part of this chapter be declared invalid or unenforceable, or the enforcement or](#)
4 [compliance with it is suspended, restrained, or barred, either by the state or by the final judgment](#)
5 [of a court of competent jurisdiction, the remainder of this chapter shall remain in full force and](#)
6 [effect.](#)

7 **40.1-22.2-10. Construction of chapter -- Participant and family protections.**

8 [\(a\) Preservation of participant self-direction.](#)

9 [\(1\) Nothing in this chapter shall be interpreted to alter, limit, or interfere with the rights of](#)
10 [participants in the self-directed supports program to exercise full control over their services and](#)
11 [supports.](#)

12 [\(2\) Participants and their representatives shall retain all rights of self-direction under state](#)
13 [and federal law including, but not limited to, the authority to:](#)

14 [\(i\) Hire, supervise, discipline, and terminate direct support professionals;](#)

15 [\(iii\) Establish work schedules and approve hours worked;](#)

16 [\(iii\) Assign job duties and tasks to be performed;](#)

17 [\(iv\) Require or permit employee breaks;](#)

18 [\(v\) Train direct support professionals in a manner determined by the participant or their](#)
19 [representative; and](#)

20 [\(vi\) Direct the manner in which services are delivered within the participant's approved](#)
21 [service plan.](#)

22 [\(3\) Nothing in this chapter shall authorize any labor organization, state agency, or third](#)
23 [party to make or influence individual care decisions for a participant.](#)

24 [\(b\) Protection of family providers. Participants shall retain the right to hire parents, legal](#)
25 [guardians, family members, or other individuals of their choosing as paid direct support](#)
26 [professionals when permitted under federal waiver programs or state policy. Nothing in this chapter](#)
27 [shall restrict or limit that right.](#)

28 [\(c\) Limitations on grievance procedures.](#)

29 [\(1\) Any grievance, arbitration, or dispute resolution procedure established pursuant to a](#)
30 [collective bargaining agreement authorized under this chapter shall apply solely to matters](#)
31 [involving the state, its departments, or its fiscal intermediary.](#)

32 [\(2\) No grievance, arbitration, or dispute resolution procedure shall be brought against or](#)
33 [imposed upon any participant, consumer employer, family member, or legal guardian participating](#)
34 [in the self-directed supports program.](#)

1 (3) Participants shall not be considered employers for purposes of any grievance procedure
2 established under this chapter.

3 (d) Protection of participant service budgets.

4 (1) Nothing in this chapter or in any collective bargaining agreement entered into pursuant
5 to this chapter shall reduce, redirect, or otherwise diminish the individual service budgets of
6 participants receiving self-directed supports.

7 (2) Any wage, benefit, or other economic improvement negotiated under this chapter shall
8 require additional state or Medicaid funding and shall not be implemented unless such funding is
9 provided. No such improvement shall be funded through reductions, reallocations, or redirection
10 of participant service budgets.

11 (3) No wage or benefit increase negotiated pursuant to this chapter shall result in reduced
12 service hours, reduced eligibility for services, or reductions in participant budget allocations.

13 (4) To the extent that wage increases are implemented through adjustments to participant-
14 specific reimbursement rates, each participant's annual self-directed program budget allocation
15 shall be increased by an equivalent percentage to ensure no reduction in authorized services.

16 (5) Nothing in this chapter shall prohibit the state from establishing or funding separate,
17 supplemental funding mechanisms including, but not limited to, statewide benefit pools,
18 reimbursement funds, or training funds, for the purpose of supporting direct support professionals;
19 provided that, such mechanisms are funded in addition to, and do not supplant or diminish,
20 participant service budgets.

21 (6) In the event that a participant's service budget is reduced, redirected, or otherwise
22 diminished in violation of this section, the state shall promptly restore the participant's budget and
23 make the participant whole for any loss of authorized services, including through retroactive
24 adjustments where necessary.

25 (e) Participant and advocate input.

26 (1) The state shall ensure a meaningful opportunity for participants receiving self-directed
27 services and their designated advocates to provide input during the collective bargaining process.

28 (2) Such opportunity shall include, at a minimum:

29 (i) The opportunity to submit comments and recommendations at clearly defined stages of
30 negotiations, including prior to the initial development of bargaining proposals and prior to the
31 finalization of any collective bargaining agreement, through accessible formats including, but not
32 limited to, written submissions, recorded audio or video submissions, or through a telephone hotline
33 or similar mechanism that allows individuals to leave recorded comments, or other methods that
34 ensure meaningful participation for individuals with disabilities;

1 (ii) At least one public meeting or listening session, with options for both in-person and
2 virtual participation to ensure accessibility, prior to the finalization of any collective bargaining
3 agreement; and

4 (iii) Consideration of participant and advocate input in the development of bargaining
5 proposals.

6 (3) Nothing in this section shall be construed to grant participants or advocates authority
7 to direct, approve, or reject the terms of a collective bargaining agreement.

8 (f) Accessible education and training.

9 (1) If direct support professionals elect to be represented by a labor organization pursuant
10 to this chapter, any education or training opportunities made available in connection with such
11 representation shall be structured in a manner that does not interfere with or replace training,
12 supervision, or service delivery as directed by the participant or their representative pursuant to the
13 participant's approved service plan.

14 (2) Completion of any education or training provided through a labor organization, the
15 state, or any third party shall not satisfy, substitute for, or limit the authority of the participant or
16 their representative to require training of direct support professionals, and no direct support
17 professional shall decline or refuse participant-directed training on that basis.

18 (3) Any education, training, orientation, or informational program established pursuant to
19 this chapter shall be designed to ensure full accessibility for participants, families, and direct
20 support professionals.

21 (4) To remove barriers to participation, such programs shall be made available through
22 remote or virtual formats whenever feasible, including online or other distance-learning options.
23 Participation in education or training programs shall not require in-person attendance if a remote
24 option is available.

25 (5) The state shall ensure that training requirements associated with this chapter do not
26 create transportation, health, supervision, or caregiving barriers for participants or their families.

27 (g) Employee choice regarding representation.

28 (1) Nothing in this chapter shall be interpreted to require any direct support professional to
29 join or support a labor organization.

30 (2) Direct support professionals shall retain the right to determine, through a democratic
31 process conducted pursuant to applicable state labor law, whether to be represented by a labor
32 organization for purposes of collective bargaining.

33 (3) A labor organization may be recognized as the representative of direct support
34 professionals only through the certification procedures established under state labor law.

1 by the department to provide services to adults with disabilities.

2 (3) "Director" means the director of the department of behavioral healthcare,
3 developmental disabilities and hospitals or the director's designees.

4 (4) "Fiscal intermediary" means a third-party organization operating in accordance with
5 applicable federal and state requirements under contract with the state that is responsible for
6 performing payroll and other employment-related functions on behalf of a participant as set forth
7 in the implementing regulations for the self-directed supports program.

8 (5) "Participant" means an adult who has a developmental disability as defined by § 40.1-
9 21-4.3(1) and has been determined by the state to be eligible for Medicaid-funded long-term
10 services and supports under the Medicaid state plan and/or the RI section 1115 waiver
11 demonstration and/or Medicaid authorities created in the future.

12 (6) "Participant's representative" means a participant's legal guardian or a person who has
13 been designated by the participant or otherwise has the authority and responsibility to act on behalf
14 of a participant with respect to the provision of self-directed services, including the developmental
15 services subject to this chapter.

16 (7) "Provider representative" means a provider organization that is certified as the exclusive
17 negotiating representative of self-directed direct support professionals as provided in § 40.1-22.3-
18 7.

19 (8) "Secretary" means the secretary of the executive office of health and human services
20 (EOHHS).

21 (9) "Self-directed direct support professional" means an individual selected by and working
22 under the direction of a self-directed supports participant or the participant's duly authorized
23 representative to provide self-directed personal care services to the participant in accordance with
24 a person-centered plan and the implementing regulations promulgated for the program by the
25 director of behavioral healthcare, developmental disabilities and hospitals. Self-directed direct
26 support professional does not mean or include an employee of a DDO, subject to the DDO's
27 direction and control commensurate with DDO employee status.

28 (10) "Self-directed personal care services" means home and community-based personal
29 care and in-home support services a participant is authorized to self-direct to meet their daily living
30 needs, function adequately at home, safely access the community, or other nonprofessional services
31 under the self-directed supports program or any similar program that may provide similar services
32 in the future under the Medicaid state plan, section 1115 demonstration waiver, or future Medicaid
33 authorities promulgated by the secretary or director.

34 **40.1-22.3-2. Right of self-directed support professionals to choose provider**

1 **representative -- Subject of negotiation.**

2 (a) Self-directed direct support professionals may, in accordance with the procedures set
3 forth in § 40.1-22.3-7, choose a provider organization to be their provider representative and to
4 negotiate with the state, over the terms and conditions of self-directed direct support professionals'
5 participation in providing direct-support services including, but not limited to:

6 (1) Training and professional development opportunities;

7 (2) Improving the recruitment and retention of qualified self-directed direct support
8 professionals;

9 (3) Reimbursement rates, wages, and other economic matters;

10 (4) Benefits;

11 (5) Payment procedures;

12 (6) Provider qualification standards; and

13 (7) A grievance resolution process.

14 (b) Nothing in this chapter or in chapter 22.2 of this title shall interfere with the regulatory
15 authority of the department of health (DOH) over self-directed direct support professionals
16 licensing. Self-directed direct support professional licensing shall be excluded from and not subject
17 to the negotiation process recognized and described in this section.

18 (c) Notwithstanding the provisions of this section, self-directed direct support professionals
19 shall operate in conformance with the relevant sections of the general laws applicable thereto and
20 regulations promulgated by the state.

21 **40.1-22.3-3. Good faith negotiations.**

22 It shall be the obligation of the director of the department of administration, or designee,
23 to meet and negotiate in good faith with the provider representative within thirty (30) days after
24 receipt of written notice from the provider representative of the request for a meeting for bargaining
25 purposes. This obligation shall include the duty to cause any agreement resulting from the
26 negotiations to be reduced to a written contract.

27 **40.1-22.3-4. Unresolved issues - Impasses procedures.**

28 In the event that the provider representative and the director, or designee, are unable to
29 reach an agreement on a contract, or reach an impasse in negotiations, the procedures of §§ 36-11-
30 7.1 through 36-11-11 shall be followed.

31 **40.1-22.3-5. Economic aspects of contract subject to legislative appropriation.**

32 Any aspects of a contract requiring appropriation by the federal government, the general
33 assembly, or revisions to statutes and regulations shall be subject to passage of those appropriations
34 and any necessary statutory and regulatory revisions.

1 **40.1-22.3-6. Duty to represent all self-directed direct support professionals fairly –**

2 **Deduction of membership dues and other voluntary deductions.**

3 (a) A provider organization certified as the provider representative shall represent all self-
4 directed direct support professionals in the state fairly and without discrimination, without regard
5 to whether or not the self-directed direct support professional is a member of the provider
6 organization.

7 (b) Each self-directed direct support professional may choose whether to be a member of
8 the provider organization. The state, or its designee, shall deduct from payments to self-directed
9 direct support professionals membership dues for self-directed direct support professionals who
10 elect to become members and authorize the deduction of membership dues, and any other voluntary
11 deductions authorized by self-directed direct support professionals.

12 **40.1-22.3-7. Certification and decertification of provider organization.**

13 (a) Petitions to certify a provider organization to serve as the provider representative of
14 self-directed direct support professionals; petitions to intervene in such an election; and any other
15 petitions for investigation of controversies as to representation may be filed with and acted upon
16 by the labor relations board in accordance with the provisions of chapter 7 of title 28 ("labor
17 relations act") and the board's rules and regulations; provided that, any valid petition as to whether
18 self-directed direct support professionals wish to certify or decertify a provider representative shall
19 be resolved by a secret ballot election among self-directed direct support professionals.

20 (b) The only appropriate unit shall consist of all self-directed direct support professionals
21 in the state.

22 (c) For purposes of this section, no self-directed direct support professional shall be deemed
23 excluded from the bargaining unit under § 28-7-3(3)(ii) because they provide care to a family
24 member or because they are in domestic service in a person's home.

25 (d) The cost of any certification election held under this section shall be split equally among
26 all the provider organizations that appear on the ballot.

27 **40.1-22.3-8. Unfair practices.**

28 It shall be unlawful for the state to perform any of the acts made unlawful under § 28-7-
29 13. It shall be unlawful for the provider representative to perform any of the acts made unlawful
30 under § 28-7-13.1. Any alleged violation of this provision may be filed with the labor relations
31 board as an unfair labor practice and considered and ruled upon in accordance with chapter 7 of
32 title 28 ("labor relations act") and the board's rules and regulations.

33 **40.1-22.3-9. Right of families to select, direct and terminate self-directed direct**
34 **support professionals.**

1 Nothing in this chapter shall be construed to alter the rights of families to select, direct, and
2 terminate the services of self-directed direct support professionals.

3 **40.1-22.3-10. Strikes not authorized.**

4 Self-directed direct support professionals shall not engage in any strike or other collective
5 cessation of the delivery of direct-support services.

6 **40.1-22.3-11. State action exemption.**

7 The state action exemption to the application of state and federal antitrust laws is applicable
8 to the activities of self-directed direct support professionals and their provider representative
9 authorized under this chapter.

10 **40.1-22.3-12. Implementation.**

11 (a) Within ninety (90) days of the effective date of this chapter, any provider organization
12 that has previously been certified to serve as the provider representative of individual providers
13 pursuant to § 40-8.15-7 shall be furnished by the director with contact information for every person
14 providing self-directed personal care services under the self-directed supports program. The
15 director shall provide any such provider organization with updated contact information every sixty
16 (60) days thereafter.

17 (b) The labor relations board shall hold an election to determine whether a provider
18 organization shall be certified as the provider representative for the bargaining unit of self-directed
19 direct support professionals upon a ten percent (10%) showing of interest. All persons who are
20 providing self-directed services under the self-directed supports program shall be considered part
21 of the bargaining unit for purposes of the showing of interest and shall be eligible to vote in the
22 certification election. If a majority of those casting ballots vote to be represented by that provider
23 organization, then the provider organization shall be certified as the provider representative to
24 negotiate with the state over the terms and conditions of self-directed direct support professionals'
25 participation in providing self-directed personal care services for all self-directed direct support
26 professionals in the state. The provisions of this chapter shall otherwise apply.

27 (c) Nothing in this chapter shall be construed to alter or limit the rights of participants and
28 their representative to select, direct, and terminate the services of self-directed direct support
29 professionals or to determine self-directed direct support professionals' wages within a range set by
30 the director, or to alter or limit the director's authority to administer the self-directed supports
31 program including to adopt rules and regulations and operate the program, to determine participant
32 budgets, to determine eligibility, or to authorize services, except as specifically set forth in this
33 chapter.

34 (d) No provision of any agreement or award resulting from collective bargaining and

1 negotiations under this chapter shall provide for a reduction in Medicaid federal financial
2 participation under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., nor shall any
3 provision of any agreement or award provide for a reduction in the self-directed personal care
4 services for eligible self-directed supports participants. Any provision in any agreement or award
5 that would require an additional appropriation in order to maintain the levels of services provided
6 by existing appropriations shall be subject to the annual budget process.

7 **40.1-22.3-13. Severability.**

8 Should any part of this chapter be declared invalid or unenforceable, or the enforcement or
9 compliance with it is suspended, restrained, or barred, either by the state or by the final judgment
10 of a court of competent jurisdiction, the remainder of this chapter shall remain in full force and
11 effect.

12 SECTION 3. This act shall take effect upon passage.

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LC004100/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS -- QUALITY SELF-DIRECTED SUPPORTS ACT OF 2026

1 This act would ensure that more developmentally disabled adults can self-direct the care
2 they need and want, by incorporating collective bargaining rights into the self-directed supports
3 program to enhance service access, increase the availability of education and training options and
4 improve the recruitment and retention of the individuals selected by participants as direct support
5 professionals. This act does not alter or limit the authority of the director of behavioral healthcare,
6 developmental disabilities and hospitals to administrator the self-directed supports program,
7 enforce existing rules, regulations and procedures, or adopt amended rules, regulations and
8 procedures for operating the program. This act further does not alter or limit the rights of
9 participants and their representatives to select, direct and terminate the services of self-directed
10 direct support professionals or to determine the wages of self-directed direct support professionals
11 within the range set by the director.

12 This act would take effect upon passage.

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