

STATE OF NEW YORK

7613

2021-2022 Regular Sessions

IN ASSEMBLY

May 19, 2021

Introduced by M. of A. STECK -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, in relation to providing for requirements for recovery living residences

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 38 of section 1.03 of the mental hygiene law,
2 as amended by chapter 281 of the laws of 2019, is amended and a new
3 subdivision 59 is added to read as follows:

4 38. "Residential services facility" or "Alcoholism community resi-
5 dence" means any facility licensed or operated pursuant to article thir-
6 ty-two of this chapter which provides residential services for the
7 treatment of an addiction disorder and a homelike environment, including
8 room, board and responsible supervision as part of an overall service
9 delivery system. Provided however, "recovery living residence" as
10 defined in subdivision fifty-nine of this section shall not be consid-
11 ered a residential services facility for the purposes of this chapter.

12 59. "Recovery living residence" means any shared residence in the
13 state that has been certified by the office of addiction services and
14 supports and meets criteria established pursuant to section 32.05-a of
15 this chapter, where the owner or operator provides a supportive living
16 arrangement for individuals recovering from a substance use disorder.

17 § 2. The mental hygiene law is amended by adding a new section 32.05-a
18 to read as follows:

19 § 32.05-a Certification of recovery living residences.

20 (a) No person or entity may purport to operate a recovery living resi-
21 dence except upon compliance with the regulations promulgated pursuant
22 to this section. Any person or entity shall be considered purporting to
23 operate a recovery living residence, regardless of whether such person
24 or entity is offering onsite recovery services, so long as such person
25 or entity holds itself out as a place where an individual reasonably

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 believes such person or entity is providing recovery services and/or a
2 sober environment.

3 (b) The commissioner shall promulgate regulations consistent with this
4 section for the purpose of certifying recovery living residences.
5 Recovery living residences shall provide a supportive home like living
6 environment for individuals recovering from a substance use disorder.

7 (c) Such regulations shall be evidence-based, utilizing information
8 from sources with expertise in treatment and recovery, with a focus on
9 appropriate settings and activities most suited toward the recovery of
10 the individual. Such regulations shall, at minimum, provide for:

11 1. onsite recovery services, which shall include services provided by
12 a certified alcohol and substance abuse counselor;

13 2. appropriate responses to individuals who relapse, which take into
14 consideration the need for the individual to continue their recovery
15 process at the residence as well as the impact on other residents;

16 3. accessibility of mental health services for any resident seeking
17 same;

18 4. informing individuals of their rights while residing at the resi-
19 dence, which shall include but not be limited to rights related to
20 privacy and confidentiality as provided by state and federal law, rights
21 related to potential eviction from the recovery living residence and
22 general rights and procedures related to individuals while residing in
23 the recovery living residence; and

24 5. operating procedures, which shall include administrative operations
25 as well as ensuring residents are receiving other necessary health care
26 services.

27 (d) 1. The commissioner may certify recovery living residences that:
28 (i) complete an application for such certification; (ii) are in compli-
29 ance with the regulations established pursuant to subdivision (b) of
30 this section; (iii) have demonstrated a need for a recovery living resi-
31 dence in the particular location identified by the applicant; and (iv)
32 can provide evidence or demonstrate their ability to effectively deliver
33 an appropriate environment for individuals recovery from a substance use
34 disorder.

35 2. As part of the application process, the applicant shall be required
36 to demonstrate the outreach such applicant conducted in the community,
37 including input provided by the community, concerns raised by the commu-
38 nity and steps such applicant has taken or will take to potentially
39 remediate some of those concerns.

40 (e) Once the commissioner has certified a location as a recovery
41 living residence, such residence shall be included on the office's
42 website as an available option for individuals seeking such an environ-
43 ment.

44 (f) The commissioner shall regulate and ensure residences who are
45 certified to be a recovery living residence are continuing to meet the
46 requirements of this section. The commissioner has the authority to
47 inspect such residences and impose penalties, including limiting, revok-
48 ing or suspending a certification, as appropriate, for failure to comply
49 with the provisions of this section.

50 § 3. Subdivisions 1, 2, 3, 5 and 6 of section 32.06 of the mental
51 hygiene law, as added by chapter 223 of the laws of 2018, are amended to
52 read as follows:

53 1. For purposes of this section, unless the context clearly requires
54 otherwise, "provider" shall mean any person, firm, partnership, group,
55 practice association, fiduciary, employer, representative thereof or any
56 other entity who is providing or purporting to provide substance use

1 disorder services or operating or purporting to operate a recovery
2 living residence. Provided, however, that "provider" shall not include
3 a person receiving substance use disorder services from the provider.

4 2. No provider shall intentionally solicit, receive, accept or agree
5 to receive or accept any payment, benefit or other consideration in any
6 form to the extent such payment, benefit or other consideration is given
7 for the referral of a person as a potential patient for substance use
8 disorder services or as a resident at a recovery living residence.

9 3. No provider providing or purporting to provide substance use disorder
10 services or operating or purporting to operate a recovery living
11 residence pursuant to this chapter, shall intentionally make, offer,
12 give, or agree to make, offer, or give any payment, benefit or other
13 consideration in any form to the extent such payment, benefit or other
14 consideration is given for the referral of a person as a potential
15 patient for substance use disorder services.

16 5. Any provider who intentionally violates the provisions of subdivi-
17 sion two or three of this section shall be guilty of a misdemeanor as
18 defined in the penal law. Additionally, any entity purporting to oper-
19 ate a recovery living residence without receiving a certification from
20 the office shall, upon reasonable notice of non-compliance, be guilty of
21 a misdemeanor as defined in the penal law.

22 6. If the commissioner has reason to believe a provider has violated
23 subdivision two or three of this section, the commissioner may proceed
24 to investigate and institute enforcement actions, as may be authorized
25 pursuant to the applicable provisions of this article. Additionally, if
26 the commissioner has reason to believe an entity is operating a recovery
27 living residence without receiving a certification from the office or
28 purporting to operate a recovery living residence, the commissioner may
29 proceed to investigate and institute enforcement actions, as may be
30 authorized pursuant to the applicable provisions of this article.

31 § 4. This act shall take effect on the sixtieth day after it shall
32 have become a law.