

7613

2009-2010 Regular Sessions

I N A S S E M B L Y

April 17, 2009

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

AN ACT to amend the mental hygiene law, in relation to a pilot program
in Suffolk county regarding recovery homes for rehabilitation of
persons with chemical dependence; and providing for the repeal thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The legislature finds that there is a
2 significant need for housing options for persons recovering from chemi-
3 cal dependence. One such option is the "recovery home" which is an unsu-
4 pervised, community-based group home for persons who have progressed
5 enough in their recovery that they can live in the community, but still
6 require the support of others in a similar situation. The legislature
7 further finds that while many recovery homes are well run and offer
8 effective programs, some recovery homes are poorly-run and cannot only
9 be injurious to the recovery of the occupants but also to the neighbor-
10 hoods in which the homes are located. The legislature has further
11 learned that there is a high concentration of poorly-run recovery homes
12 in Suffolk county, which have been the source of many problems in local
13 communities. The legislature therefore finds that a pilot program to
14 study the provision of government oversight of recovery homes in Suffolk
15 county is needed to both protect the occupants of the homes and the
16 communities in which they are located.

17 S 2. The mental hygiene law is amended by adding a new section 32.06
18 to read as follows:

19 S 32.06 SUFFOLK COUNTY PILOT PROGRAM.

20 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN COOPERATION
21 WITH LOCAL MENTAL HYGIENE OFFICIALS, SHALL ESTABLISH A PILOT PROGRAM IN
22 SUFFOLK COUNTY FOR THE REGULATION, OPERATION AND OVERSIGHT OF RECOVERY
23 HOMES AND RECOVERY HOUSING IN SUFFOLK COUNTY.

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

LBD05364-01-9

(A) DEFINITION. FOR THE PURPOSES OF THIS SECTION, "RECOVERY HOME" OR "RECOVERY HOUSING" MEANS ANY HOME THAT IS AFFILIATED WITH A TREATMENT PROVIDER LICENSED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE SERVICES THAT DOES NOT PROVIDE TREATMENT BUT SETS BASIC GROUND RULES TO ASSIST WITH THE REHABILITATION OF PERSONS WHO ARE ASSESSED OR DIAGNOSED WITH CHEMICAL DEPENDENCE, AS DEFINED IN SUBDIVISION FORTY-FOUR OF SECTION 1.03 OF THIS CHAPTER.

(B) REGISTRATION AND OPERATION. 1. NO INDIVIDUAL, PARTNERSHIP, ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, PUBLIC OR PRIVATE AGENCY OR ANY PART THEREOF LOCATED IN SUFFOLK COUNTY SHALL HOLD ITSELF OUT TO THE PUBLIC IN A MANNER WHICH INDICATES, DIRECTLY OR INDIRECTLY, THE AVAILABILITY OF RECOVERY HOME OCCUPANCY FOR PERSONS WHO ARE ASSESSED OR DIAGNOSED WITH CHEMICAL DEPENDENCE, AS DEFINED IN SUBDIVISION FORTY-FOUR OF SECTION 1.03 OF THIS CHAPTER, UNLESS IT HAS OBTAINED A CERTIFICATE OF REGISTRATION FROM THE COMMISSIONER IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

2. ALL APPLICATIONS FOR CERTIFICATES OF REGISTRATION SHALL BE SUBMITTED IN WRITING ON FORMS FURNISHED BY THE OFFICE. THE APPLICATION SHALL BE IN A FORM AND CONTAIN SUCH DATA AS THE OFFICE SHALL PRESCRIBE PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS SECTION.

3. NO CERTIFICATE OF REGISTRATION SHALL BE ISSUED OR RENEWED UNTIL THE COMMISSIONER HAS DETERMINED THAT THE FOLLOWING CONDITIONS ARE SATISFACTORILY MET:

(I) THE PUBLIC NEED FOR A RECOVERY HOME AS IDENTIFIED BY THE DIVISION OF COMMUNITY MENTAL HYGIENE OF THE SUFFOLK COUNTY DEPARTMENT OF HEALTH;

(II) THE CHARACTER, COMPETENCE AND STANDING IN THE COMMUNITY OF THE PERSON OR ENTITY RESPONSIBLE FOR OPERATING THE RECOVERY HOME;

(III) THE COMPLIANCE OF THE APPLICANT WITH ALL APPLICABLE STATE AND LOCAL ZONING AND BUILDING CODES;

(IV) THE PROVISION BY THE APPLICANT OF AN ENVIRONMENT THAT PROMOTES AND SUPPORTS THE REHABILITATION OF PERSONS WITH A CHEMICAL DEPENDENCE; AND SUCH OTHER MATTERS AS THE COMMISSIONER SHALL DEEM PERTINENT AND IN THE PUBLIC INTEREST IN RELATION TO THE OPERATION OF ANY PROPOSED RECOVERY HOME.

4. A CERTIFICATE OF REGISTRATION SHALL SPECIFY THE NUMBER OF PERSONS AUTHORIZED TO RESIDE THEREIN AND SHALL INDICATE THE EXPIRATION DATE OF SUCH REGISTRATION. A CERTIFICATE OF REGISTRATION SHALL BE VALID FOR TWO YEARS FROM THE DATE OF ISSUANCE AND SHALL EXPIRE ON THE LAST DAY OF THE TWENTY-FOURTH MONTH FOLLOWING SUCH ISSUANCE. THE BIENNIAL REGISTRATION FEE SHALL BE FIVE HUNDRED DOLLARS TO BE PAID UPON THE ISSUANCE OR RENEWAL OF A CERTIFICATE OF REGISTRATION, HOWEVER, THE OFFICE SHALL HAVE THE AUTHORITY TO WAIVE THE FEE AT ITS DISCRETION.

5. ALL RECOVERY HOMES SHALL PUBLICLY POST THEIR CURRENT VALID CERTIFICATES OF REGISTRATION.

6. ALL CERTIFICATES OF REGISTRATION SHALL REMAIN THE PROPERTY OF THE OFFICE AND MUST BE RETURNED TO THE OFFICE UPON THE REVOCATION OR EXPIRATIONS THEREOF, OR UPON DEMAND OF THE COMMISSIONER. CERTIFICATES OF REGISTRATION ARE NOT TRANSFERABLE.

7. EXISTING FACILITIES IN SUFFOLK COUNTY THAT MEET THE DEFINITION OF A RECOVERY HOME OR RECOVERY HOUSING, AS DEFINED IN THIS SECTION, SHALL BE GRANTED CERTIFICATES OF REGISTRATION.

8. THE OFFICE SHALL MAINTAIN A REGISTRY OF RECOVERY HOMES THAT HAVE CURRENT VALID CERTIFICATES OF REGISTRATION. THE REGISTRY SHALL INCLUDE THE STREET ADDRESS AND MUNICIPALITY, THE NUMBER OF PERSONS AUTHORIZED TO

1 RESIDE THEREIN, AND SUCH OTHER INFORMATION AS THE COMMISSIONER SHALL
2 DEEM PERTINENT OR NECESSARY.

3 (C) OVERSIGHT. THE OFFICE SHALL OPERATE A TOLL-FREE TELEPHONE HOTLINE
4 TO RESPOND TO COMPLAINTS AGAINST RECOVERY HOMES.

5 (D) RULES AND REGULATIONS. THE COMMISSIONER SHALL HAVE THE POWER TO
6 ADOPT RULES AND REGULATIONS TO EFFECTUATE THE PROVISIONS AND PURPOSES OF
7 THIS SECTION, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING TERMS AND
8 CONDITIONS OF CERTIFICATES OF REGISTRATION FOR RECOVERY HOMES AND RECOV-
9 ERY HOUSING BASED UPON AN ASSESSMENT OF SUCH FACTORS, INCLUDING BUT NOT
10 LIMITED TO THE REHABILITATIVE CHARACTER OF THE PROPOSED HOME, THE OPERA-
11 TOR'S MORAL CHARACTER, COMPETENCE, STANDING IN THE COMMUNITY,
12 RECORD-KEEPING REQUIREMENTS, FISCAL RESPONSIBILITY, PUBLIC NEED AND SUCH
13 OTHER MATTERS OF PUBLIC INTEREST AS THE OFFICE SHALL DEEM APPROPRIATE.

14 (E) REVOCATION OF CERTIFICATES OF REGISTRATION. 1. THE COMMISSIONER
15 MAY REVOKE, SUSPEND, OR LIMIT A CERTIFICATE OF REGISTRATION UPON A
16 DETERMINATION THAT THE HOLDER OF THE CERTIFICATE HAS FAILED TO COMPLY
17 WITH THE TERMS OF ITS CERTIFICATE OF REGISTRATION OR WITH THE PROVISIONS
18 OF ANY APPLICABLE STATE OR LOCAL STATUTE, RULE, OR REGULATION. THE HOLD-
19 ER OF THE CERTIFICATE SHALL BE GIVEN NOTICE AND AN OPPORTUNITY TO BE
20 HEARD PRIOR TO ANY SUCH DETERMINATION.

21 2. THE COMMISSIONER MAY IMPOSE A FINE UPON A FINDING THAT THE HOLDER
22 OF THE CERTIFICATE HAS FAILED TO COMPLY WITH THE TERMS OF ITS CERTIF-
23 ICATE OF REGISTRATION OR WITH THE PROVISIONS OF ANY APPLICABLE STATE OR
24 LOCAL STATUTE, RULE OR REGULATION. THE MAXIMUM AMOUNT OF SUCH FINE SHALL
25 BE UP TO ONE THOUSAND DOLLARS FOR EVERY DAY SUCH FAILURE TO COMPLY
26 CONTINUES TO EXIST UP TO A MAXIMUM FINE OF FIVE THOUSAND DOLLARS.

27 3. PENDING A DETERMINATION PURSUANT TO THE FOREGOING PROVISIONS, THE
28 COMMISSIONER MAY, UPON WRITTEN NOTICE TO THE HOLDER THEREOF, SUSPEND A
29 CERTIFICATE OF REGISTRATION FOR NOT MORE THAN THIRTY DAYS IF HE OR SHE
30 HAS REASONABLE GROUNDS FOR FINDING THAT THE CONTINUED OPERATION OF THE
31 RECOVERY HOME PRESENTS AN IMMEDIATE DANGER TO THE HEALTH AND WELFARE OF
32 THE PUBLIC OR OF ANY PERSONS LIVING IN THE RECOVERY HOME.

33 (F) REPORT. NOT LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS
34 SECTION, THE COMMISSION SHALL PREPARE A REPORT EVALUATING THE EFFECTIVE-
35 NESS OF THE PILOT PROGRAM. SUCH REPORT SHALL INCLUDE, BUT NEED NOT BE
36 LIMITED TO:

37 1. A LISTING AND DESCRIPTION OF ALL RECOVERY HOMES AND RECOVERY HOUS-
38 ING IN SUFFOLK COUNTY, INCLUDING THE NUMBER OF RESIDENTS RESIDING IN
39 EACH HOME;

40 2. AN ASSESSMENT AND SUGGESTION FOR IMPROVING AVAILABLE HOUSING
41 OPTIONS FOR PERSONS RECOVERING FROM CHEMICAL DEPENDENCE; AND

42 3. AN ASSESSMENT OF THE EFFICACY OF THE PILOT PROGRAM, AND THE DEGREE
43 TO WHICH IT SUCCESSFULLY ADDRESSED THE RECOVERY HOME ISSUE IN SUFFOLK
44 COUNTY.

45 S 3. This act shall take effect on the one hundred eightieth day after
46 it shall have become a law, and shall expire and be deemed repealed four
47 years after such date; provided that any rule or regulation necessary
48 for the implementation of this act on its effective date is immediately
49 authorized and directed to be made.