STATE OF NEW YORK

4814

2021-2022 Regular Sessions

IN ASSEMBLY

February 8, 2021

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

AN ACT to amend the general business law, the mental hygiene law and the social services law, in relation to the improvement and operation of sober living homes

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

Section 1. Declaration of findings and legislative intent. The legislature hereby finds and declares that there is an urgent need to improve the operation of sober living homes. A sober living home is intended to provide affordable, drug and alcohol free environments for persons who are enrolled in out-patient treatment or recovering from a drug or alcohol addiction. The mission of a sober living home is to promote recovery and allow individuals to become self-supporting. In order to meet this mission, residents must be afforded a safe, sanitary, and secure environment.

The legislature further finds that far too many sober living home operators fail to provide the atmosphere necessary for residents. While there certainly are some well-run sober living homes that truly aim to assist those in recovery, many of these homes are often overcrowded, drug and alcohol infested, unsanitary, and incompetently managed. In order to ensure that appropriate living standards are being maintained, regulations pertaining to the operation of sober living homes must be established and enforced.

The legislature further finds and declares that it is the intent of the legislature to prevent recidivism, injury, and death among persons seeking housing in a sober living home by establishing and enforcing operational standards. By ensuring that appropriate standards are established and enforced, communities which host a sober living home will also benefit. By authorizing the state to certify establishments meeting the criteria necessary to provide an appropriate environment, and by

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

LBD06884-01-1

allowing localities to inspect the establishment, safe and effective sober living homes can continue to improve people's lives.

§ 2. The general business law is amended by adding a new section 390-d to read as follows:

§ 390-d. Sober living homes. 1. A "sober living home" shall mean a home that is operated, whether for profit or not, for transitional recovery purposes of individuals afflicted with alcohol or substance abuse dependencies. Such homes shall have, as its primary purpose, the reintegration of such afflicted persons into society with accompanying monitoring and support, and shall provide a safe, supportive, drug-free living environment. Homes established as "half-way houses or homes" and/or "recovery houses or homes" shall be included in this definition.

2. An owner, operator, or landlord, may not hold themselves out to be or advertise to be a "sober living home" unless they are certified by, and remain in good standing with, the New York state office of addiction services and supports.

3. Any violation of this section shall result in a fine in the amount of ten thousand dollars.

§ 3. The mental hygiene law is amended by adding a new article 21 to read as follows:

ARTICLE 21

CERTIFICATION OF SOBER LIVING HOMES

Section 21.01 Authority.
21.03 Definition.
21.05 Certification process.
21.07 Certification fee.
21.09 Revocation of certificates.
21.11 Inspections.
21.13 Violations.
21.15 Exclusivity of sober living home title.
21.17 Listing of certified sober living homes.
21.19 Toll-free hotline.

§ 21.01 Authority.

The legislature hereby declares that alcoholism, substance abuse and chemical dependence pose major health and social problems for individuals. It has been proven that transitional living environments can help to prevent recidivism after an individual has ceased using alcohol, illegal substances and chemicals. The tragic, cumulative and often fatal consequences of recidivism can be prevented through the establishment of quality sober living homes.

The legislature recognizes locally implemented transitional living programs as an effective avenue to avert recidivism. The primary goals of rehabilitation and recovery are to restore social, family, lifestyle, vocational, and economic supports by stabilizing an individual's physical and psychological functioning. By ensuring that sober living homes are offering the environment necessary for such success, positive treatment outcomes can be further attained.

The state of New York and local governments have a responsibility to coordinate the delivery of alcoholism and substance abuse services, through the entire process of recovery. To accomplish these objectives, the legislature declares that the establishment of a program for certification of sober living homes will provide an integrated framework to further plan, oversee, and regulate the state's prevention and treatment network. In recognition of the growing trends and incidences of recidivism, this oversight allows the state to respond to the recovery needs of

individuals suffering from alcoholism, substance abuse and chemical dependency.

§ 21.03 Definition.

For the purposes of this section, a "sober living home" shall mean a home that is operated, whether for profit or not, for transitional recovery proposes of individuals afflicted with alcohol or substance abuse dependencies. Such homes shall have, as its primary purpose, the reintegration of such afflicted persons into society with accompanying monitoring and support, and shall provide a safe, supportive, drug-free living environment. Homes established as "half-way houses or homes" and/or "recovery houses or homes" shall be included in this definition.

§ 21.05 Certification process.

1. The office shall promulgate rules and regulations necessary for the implementation of a program for certification of sober living homes. Provided however, that any rules or regulations adopted must include a provision requiring an inspection of the proposed sober living home prior to the completion of the certification process.

2. In addition to any standards promulgated by the office, operators of sober living homes shall, at a minimum:

(a) Operate in accordance with all federal, state, and local building codes and ordinances to the extent practicable in accordance with the Federal Fair Housing Act.

(b) Be operated or managed by people with at least two years employment experience with people with substance abuse disorders. Operators may not have any prior felony convictions.

(c) Be affiliated with a treatment program approved by the office of addictions services and supports.

(d) Establish and enforce a zero tolerance policy for alcoholism and substance abuse.

(e) Provide furnished living spaces in accordance with all local zoning and housing standards.

(f) Have an OASAS certified abuse counselor on staff who follows each individual's aftercare plan as well as assists each individual, as needed, in furthering their education, acquiring job training, and securing employment so they can transition out of the sober living home.

3. Such certificate shall specify:

(a) The name of the holder of the certificate.

(b) The address to which the certificate applies.

(c) The maximum number of persons to reside in the home.

4. Such certificate shall be publicly displayed at the home.

5. Certificates are non-transferable to new ownership or other locations.

6. Nothing in this section shall relieve certificate holders from complying with other provisions of this article, nor shall powers or duties of the office granted or imposed by other sections of this article be circumscribed by this section. Further, nothing in this section shall relieve certificate holders from complying with other applicable provisions of county law or regulation which do not violate this article.

§ 21.07 Certification fee.

The office is hereby authorized to impose a reasonable fee to apply for a certificate. The office is also authorized to collect a biannual re-certification fee of five hundred dollars from applicants and holders of sober living home certificates in order to implement the certification process and oversee compliance therewith. Certification must be renewed every two years. One-half of the revenue generated by this fee

shall be remitted to the county. The office shall have the authority to waive this fee at its discretion.

§ 21.09 Revocation of certificates.

1. The office shall have the authority to revoke a certificate if a sober living home ceases to meet the standards provided or with the provisions of any other applicable state or county law or regulation. The holder of the certificate shall be given at least thirty days written notice and the opportunity to be heard prior to revocation.

2. The commissioner may immediately revoke a certificate if there are reasonable grounds to believe that the continued operation of the sober living home presents an immediate danger to residents of the home or the general public. Such action must be made in writing to the certificate holder, and may last no longer than thirty days, during which time the commissioner shall make a final determination after giving the certificate holder an opportunity to be heard.

§ 21.11 Inspections.

The office shall, in coordination with the county department of community mental hygiene services, promulgate rules and regulations regarding the inspection of certified sober living homes in order to ensure that each home is in compliance with all applicable rules and regulations.

§ 21.13 Violations.

Any certified sober living home that is found by the office to be in violation of any provision of this article or any other state, county, town, or village law or regulation may be fined. A fine may be imposed for each day that a sober living home remains in violation of this article or any other state or county law or regulation. The daily fine may not exceed one thousand dollars per day, and in no event may the total fine amount exceed five thousand dollars annually except for fines issued pursuant to section two hundred ten of the general business law. Such fine may be in lieu of, or in addition to, certificate revocation. One-half of any fines assessed shall be remitted to the county.

§ 21.15 Exclusivity of sober living home title.

No owner, operator or landlord may hold a property out to be or advertise a property as a sober living home unless the property is certified by the office.

§ 21.17 Listing of certified sober living homes.

The office shall maintain an online listing, available to the public, of all certified sober living homes which are in good standing.

§ 21.19 Toll-free hotline.

The office shall establish a toll-free telephone line to receive and respond to complaints regarding sober living homes.

§ 4. Section 17 of the social services law is amended by adding a new subdivision (h-1) to read as follows:

(h-1) ensure that all recipients of public assistance who reside in sober living homes, as defined by article twenty-one of the mental hygiene law, reside in housing accommodations that are in compliance with all applicable building codes, ordinances and regulations of the municipality in which the housing accommodation is located. Reasonable accommodations from building codes, ordinances and regulations shall be made pursuant to the Federal Fair Housing Act. Upon discovery that such housing accommodation is not in compliance recipients shall be housed in emergency housing or other alternative temporary housing until such time as the initial housing accommodation in which such recipient or recipients resided is brought into compliance with all applicable building codes, ordinances and regulations of the county and the municipality in

which such housing accommodation is located or until a suitable permanent housing accommodation is located, whichever occurs earlier;

§ 5. Subdivision 2 of section 143-b of the social services law, as added by chapter 997 of the laws of 1962, is amended to read as follows:

2. Every public welfare official shall have power to and may withhold the payment of any such rent**, or portion comprising rent in instances where the public welfare department makes room and board payments to a sober living home as defined by the mental hygiene law,** in any case where he has knowledge that there exists or there is outstanding any violation of law in respect to the building containing the housing accommodations occupied by the person entitled to such assistance which is dangerous, hazardous or detrimental to life or health. A report of each such violation shall be made to the appropriate public welfare department by the appropriate department or agency having jurisdiction over violations.

§ 6. Severability. If any clause, sentence, paragraph or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 7. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such effective date.