# STATE OF NEW YORK

7613--A

2021-2022 Regular Sessions

# IN ASSEMBLY

May 19, 2021

Introduced by M. of A. STECK, GRIFFIN, ENGLEBRIGHT -- read once and referred to the Committee on Alcoholism and Drug Abuse -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:**

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

38. "Residential services facility" or "Alcoholism community residence" means any facility licensed or operated pursuant to article thirty-two of this chapter which provides residential services for the treatment of an addiction disorder and a homelike environment, including room, board and responsible supervision as part of an overall service delivery system. **Provided however, "recovery living residence" as defined in subdivision fifty-nine of this section shall not be considered a residential services facility for the purposes of this chapter.**

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

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

**§ 32.05-a Certification of recovery living residences.**

**1. No person or entity may purport to operate a recovery living residence except upon compliance with the regulations promulgated pursuant to this section. Any person or entity shall be considered purporting to**

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

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operate a recovery living residence, regardless of whether such person or entity is offering onsite recovery services, so long as such person or entity holds itself out as a place where an individual reasonably believes such person or entity is providing recovery services and/or a sober environment.

2. The commissioner shall promulgate regulations consistent with this section for the purpose of certifying recovery living residences. Recovery living residences shall provide a supportive home like living environment for individuals recovering from a substance use disorder.

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

(a) access to a certified alcohol and substance abuse counselor either onsite or via telehealth services;

(b) appropriate responses to individuals who relapse, which take into consideration the need for the individual to continue their recovery process at the residence as well as the impact on other residents;

(c) access to a licensed professional whose scope of practice includes the diagnosis of mental health disorders either onsite or via telehealth services for those recovering from a co-occuring mental health disorder;

(d) informing individuals of their rights while residing at the residence, which shall include but not be limited to rights related to privacy and confidentiality as provided by state and federal law, rights related to potential eviction from the recovery living residence and general rights and procedures related to individuals while residing in the recovery living residence; and

(e) operating procedures, which shall include administrative operations as well as ensuring residents are receiving other necessary health care services.

4. (a) The commissioner may certify recovery living residences that: (i) complete an application for such certification; (ii) are in compliance with the regulations established pursuant to subdivision two of this section; (iii) have demonstrated a need for a recovery living residence in the particular location identified by the applicant; and (iv) can provide evidence or demonstrate their ability to effectively deliver an appropriate environment for individuals recovering from a substance use disorder.

(b) As part of the application process, the applicant shall be required to demonstrate the outreach such applicant conducted in the community, including input provided by the community, concerns raised by the community and steps such applicant has taken or will take to potentially remediate some of those concerns.

5. Once the commissioner has certified a location as a recovery living residence, such residence shall be included on the office's website as an available option for individuals seeking such an environment.

6. The commissioner shall regulate and ensure residences who are certified to be a recovery living residence are continuing to meet the requirements of this section. The commissioner has the authority to inspect such residences and impose penalties, including limiting, revoking or suspending a certification, as appropriate, for failure to comply with the provisions of this section.

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

1. For purposes of this section, unless the context clearly requires otherwise, "provider" shall mean any person, firm, partnership, group, practice association, fiduciary, employer, representative thereof or any other entity who is providing or purporting to provide substance use disorder services **or operating or purporting to operate a recovery living residence**. Provided, however, that "provider" shall not include a person receiving substance use disorder services from the provider.

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

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

5. Any provider who intentionally violates the provisions of subdivision two or three of this section shall be guilty of a misdemeanor as defined in the penal law. **Additionally, any entity purporting to operate a recovery living residence without receiving a certification from the office shall, upon reasonable notice of non-compliance, be guilty of a misdemeanor as defined in the penal law.**

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

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