

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:

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 1. 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

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

LBD11510-02-2

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

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

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

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

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

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

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

28 (e) operating procedures, which shall include administrative oper-
29 ations as well as ensuring residents are receiving other necessary
30 health care services.

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

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

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

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

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

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

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

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

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

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

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