

STATE OF NEW YORK

6094

2023-2024 Regular Sessions

IN SENATE

March 28, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Use Disorders

AN ACT to amend the mental hygiene law, in relation to establishing certified recovery residences for individuals recovering from substance use disorder

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

1 Section 1. The mental hygiene law is amended by adding a new section
2 19.22 to read as follows:

3 § 19.22 Certified recovery residences.

4 1. For the purposes of this section, the following terms shall have
5 the following meanings:

6 (a) "Certified recovery residential facility" means a supportive
7 living facility with four to fourteen residents or a supervised living
8 facility subject to licensure by the office which provides a residence
9 for up to fourteen individuals who are recovering from substance use
10 disorder.

11 (b) "Provider" means a provider of inpatient or outpatient substance
12 use disorder recovery services which intends to establish or operate a
13 certified recovery residential facility.

14 (c) "Municipality" means an incorporated village if a facility is to
15 be located therein, a town if the facility is to be located therein and
16 not simultaneously within an incorporated village, or a city, except
17 that in the city of New York, the community board with jurisdiction over
18 the area in which such a facility is to be located shall be considered
19 the municipality.

20 (d) "Commissioner" means the commissioner of the office of the depart-
21 ment responsible for issuance of license and operating certificate to
22 the proposed certified recovery residential facility.

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

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1 2. The commissioner shall have the power to operate or cause to be
2 operated certified recovery residential facilities. Within amounts
3 available therefor and subject to regulations established by him or her
4 and notwithstanding any other provisions of this article, he or she may
5 provide state aid to providers (a) in an amount not to exceed fifty
6 percent for acquisition or construction of such certified recovery resi-
7 dences, and (b) in an amount not to exceed fifty percent for the total
8 operating costs of community residences except certified recovery resi-
9 dences. Such state aid to providers shall not be granted unless there
10 has been prior approval of the proposed certified recovery residence by
11 the local governmental unit.

12 3. If a provider intends to establish a residential facility for indi-
13 viduals recovering from substance use disorder within a municipality but
14 does not have a specific site selected, it may notify the chief execu-
15 tive officer of the municipality in writing of its intentions and
16 include in such notice a description of the nature, size and community
17 support requirements of the program. Provided, however, nothing in this
18 subdivision shall preclude the proposed establishment of a site pursuant
19 to subdivision four of this section.

20 4. (a) When a site has been selected by the provider, it shall notify
21 the chief executive officer of the municipality in writing and include
22 in such notice the specific address of the site, the type of community
23 residence, the number of residents and the community support require-
24 ments of the program. Such notice shall also contain the most recently
25 published data compiled pursuant to section four hundred sixty-three-a
26 of the social services law which can reasonably be expected to permit
27 the municipality to evaluate all such facilities affecting the nature
28 and character of the area wherein such proposed facility is to be
29 located. The municipality shall have forty days after the receipt of
30 such notice to:

31 (i) approve the site recommended by the provider;

32 (ii) suggest one or more suitable sites within its jurisdiction which
33 could accommodate such a facility; or

34 (iii) object to the establishment of a facility of the kind described
35 by the provider because to do so would result in such a concentration of
36 certified recovery residential facilities in the municipality or in the
37 area in proximity to the site selected or a combination of such facili-
38 ties with other community residences or similar facilities licensed by
39 other agencies of state government, including all community residences,
40 intermediate care facilities, residential care facilities for adults and
41 residential treatment facilities for individuals with mental illness or
42 developmental disabilities operated pursuant to article sixteen or arti-
43 cle thirty-one of the this chapter and all similar residential facili-
44 ties of fourteen or less residents operated or licensed by another state
45 agency, that the nature and character of the areas within the muni-
46 city would be substantially altered.

47 (b) Such response shall be forwarded to the provider and the commis-
48 sioner. If the municipality does not respond within forty days, the
49 provider may establish a certified recovery residence at a site recom-
50 ended in its notice.

51 (c) Prior to forwarding a response to the provider and the commis-
52 ioner, the municipality may hold a public hearing pursuant to local law.

53 (d) If the municipality approves the site recommended by the provider,
54 the provider shall seek to establish the facility at the approved site.

55 (e) (i) If the site or sites suggested by the municipality are satis-
56 factory with regard to the nature, size and community support require-

1 ments of the program of the proposed facility and the area in which such
2 site or sites are located does not already include an excessive number
3 of certified recovery residential facilities or similar facilities
4 licensed by other state agencies, the provider shall seek to establish
5 its facility at one of the sites designated by the municipality.

6 (ii) If the municipality suggests a site or sites which are not satis-
7 factory to the provider, the provider shall so notify the municipality
8 which shall have fifteen days to suggest an alternative site or sites
9 for the proposed certified recovery residential facility.

10 (f) (i) In the event the municipality objects to the establishment of
11 a facility in the municipality because to do so would result in such a
12 concentration of certified recovery residential facilities or a combina-
13 tion of such facilities and other facilities licensed by other state
14 agencies that the nature and character of areas within the municipality
15 would be substantially altered; or the provider objects to the estab-
16 lishment of a facility in the area or areas suggested by the munici-
17 pality; or in the event that the municipality and the provider cannot
18 agree upon a site, either the provider or the municipality may request
19 an immediate hearing before the commissioner to resolve the issue. The
20 commissioner shall personally or by a hearing officer conduct such a
21 hearing within fifteen days of such a request.

22 (ii) In reviewing any such objections, the need for such facilities in
23 the municipality shall be considered as shall the existing concentration
24 of such facilities and other similar facilities licensed by other state
25 agencies in the municipality or in the area in proximity to the site
26 selected and any other facilities in the municipality or in the area in
27 proximity to the site selected providing residential services to a
28 significant number of persons who are individuals recovering from
29 substance disorder. The commissioner shall sustain the objection if he
30 or she determines that the nature and character of the area in which the
31 facility is to be based would be substantially altered as a result of
32 the establishment of the facility. The commissioner shall make a deter-
33 mination within thirty days of the hearing.

34 5. Review of a decision rendered by the commissioner pursuant to this
35 section may be had in a proceeding pursuant to article seventy-eight of
36 the civil practice law and rules commenced within thirty days of the
37 determination of the commissioner.

38 6. (a) A licensing authority shall not issue an operating certificate
39 to a provider for operation of a facility if the provider does not noti-
40 fy the municipality of its intention to establish a program as required
41 by subdivision four of this section. Any operating certificate issued
42 without compliance with the provisions of this section shall be consid-
43 ered null and void and continued operation of the facility may be
44 enjoined.

45 (b) The office shall not issue an operating certificate for the opera-
46 tion of a supportive living facility or a supervised living facility of
47 more than fourteen residents if the provider which intends to establish
48 or operate such a facility does not notify the chief executive officer
49 of the municipality in which that facility is to be established in writ-
50 ing of the intention to establish such facility and include in such
51 notice the specific address of the site, the type of residence, the
52 number of residents and the community support requirements of the
53 program; provided, however, that nothing contained in this paragraph
54 shall either be construed to require facilities of more than fourteen
55 beds to meet any other requirements of this section, or to deem such
56 facilities family units for the purposes of local laws and ordinances.

1 7. A certified recovery residence established pursuant to this section
2 shall be deemed a family unit, for the purposes of local laws and ordi-
3 nances.

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