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SENATE BILL NO. 838

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services)

(Patron Prior to Substitute—Senator VanValkenburg)

Senate Amendments in [] - January 31, 2025

A BILL to amend and reenact § 37.2-431.1 of the Code of Virginia, relating to Department of Behavioral Health and Developmental Services; recovery residences; certification required; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-431.1 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-431.1. Recovery residences.

A. As used in this section:

"Credentialing entity" means a nonprofit organization that develops and administers professional certification programs according to standards of the National Alliance for Recovery Residences or standards endorsed by Oxford House, Inc.

"Level of support" means the level of support and structure that a recovery residence provides to residents, as specified in the standards of the National Alliance for Recovery Residences.

"Recovery residence" means a housing facility that is certified by the Department in accordance with regulations adopted by the Board and provides alcohol-free and illicit-drug-free housing to individuals with substance abuse disorders and individuals with co-occurring mental illnesses and substance abuse disorders that does not include clinical treatment services.

B. Every recovery residence shall disclose to each prospective resident its credentialing entity. If the credentialing entity is the National Alliance for Recovery Residences, the recovery residence shall disclose the level of support provided by the recovery residence. If the credentialing entity is Oxford House, Inc., the recovery residence shall disclose that the recovery residence is self-governed and unstaffed.

C. No person shall operate a recovery residence or advertise, represent, or otherwise imply to the public that a recovery residence or other housing facility is certified by the Department unless such recovery residence or other housing facility has been certified by the Department in accordance with regulations adopted by the Board. Such regulations (i) may require accreditation by or membership in a credentialing agency as a condition of certification; (ii) shall require the recovery residence, as a condition of certification, to comply with any minimum square footage requirements related to beds and sleeping rooms established by the credentialing entity or the square footage requirements set forth in § 36-105.4, whichever is greater; and (iii) shall require recovery residences to report to the Department any death or serious injury that occurs in the recovery residence. *The Department may issue a provisional certification to any recovery residence that has indicated an intent to receive accreditation by or membership in a credentialing agency when such accreditation or membership is a condition of certification. [Such provisional certification shall apply to recovery residences established on or after July 1, 2025.] The maximum term of a provisional certification shall be six months. Violation of this subsection is a Class 1 misdemeanor.*

D. The Department shall maintain a list of recovery residences on its website and shall provide (i) for each recovery residence included on such list, the credentialing entity; (ii) for recovery residences for which the National Alliance of Recovery Residences is the credentialing entity, the level of support provided by the recovery residence; and (iii) for recovery residences for which Oxford House, Inc., is the credentialing entity, a disclosure that the recovery residence is self-governed and unstaffed.

~~E. The Department may institute civil proceedings in the name of the Commonwealth to enjoin any person from violating the provisions of this section and to recover a civil penalty of at least \$200 but no more than \$1,000 for each violation. Such proceedings shall be brought in the general district or circuit court for the county or city in which the violation occurred or where the defendant resides. Civil penalties assessed under this section shall be paid into the Behavioral Health and Developmental Services Trust Fund established in § 37.2-318.~~

2. That the Secretary of Health and Human Resources shall convene a work group to (i) analyze and make recommendations regarding the creation of a process through which the Department of Behavioral Health and Developmental Services (the Department) can provide oversight of all recovery residences in the Commonwealth and (ii) make recommendations to ensure transparency with the public and residents or potential residents of recovery residences regarding the certification of each recovery residence, including certification requirements, results, and inspections. Such work group shall develop credentialing guidelines to be implemented by the Department, including (a) a uniform set of certification criteria for all recovery residences; (b) protocols for the Department to define qualifications for indigent bed fees and payment and reimbursement to recovery residences for indigent bed fees; (c) protocols to ensure resident and patient choice in receiving treatment and that the recovery residence operator, the house manager, or anyone in leadership with the recovery

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60 residence is not determining the treatment received; (d) training and standards that recovery residence
61 operators and house managers shall meet before becoming a certified recovery residence operator or a
62 certified recovery house manager, including a verified period of participation in recovery; (e) a
63 Residents' Bill of Rights, including a mandatory compliance requirement with such Residents' Bill of
64 Rights by certified recovery residence operators and certified recovery house managers; (f) protocols
65 for termination of residency; (g) uniform data collection for recovery residences with a transparent
66 data platform; (h) establishment of a hotline for complaints involving or against recovery residences to
67 facilitate investigations; (i) a process for investigation of complaints involving or against recovery
68 residences to be conducted by the Department or the Department in coordination with the locality
69 where the recovery residence is located and not the credentialing entity; (j) protocols for sanctions on
70 recovery residences, including decertification when appropriate; (k) methods for localities to conduct
71 fire, building, safety, and health inspections of recovery residences; and (l) other issues related to
72 recovery residences and their operators as the work group shall deem appropriate. Such work group
73 shall include representatives of the Department's Office of Recovery Services, Oxford House, Inc., the
74 Virginia Association of Addiction Professionals, the Virginia Association of Recovery Residences,
75 representatives of all interested localities where more than five recovery residences are located,
76 members of the community where the recovery residences are located, and other relevant stakeholders.
77 The work group shall report its findings and recommendations to the General Assembly by November
78 1, 2025.

79 3. That the Board of Behavioral Health and Developmental Services shall promulgate regulations
80 providing for provisional certification of recovery residences in accordance with subsection C of §
81 37.2-431.1 of the Code of Virginia, as amended by this act.