

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act 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.

[S 838]

Approved

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 conditional 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. The maximum term of a conditional certification shall be six months. At the discretion of the Department, a conditional certification may be renewed for a period not to exceed three months if the provider is not able to demonstrate compliance with all certification regulations but demonstrates progress toward compliance. However, in no case shall the total period of conditional certification exceed nine successive months. Conditional certifications may be revoked for serious health and safety concerns. Violation of this subsection is a Class 1 misdemeanor.*

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

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