

ASSEMBLY, No. 4084

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Co-Sponsored by:

Assemblywoman Dunn

SYNOPSIS

Clarifies DHS authority over sober living homes, and requires certain sober living homes to be dedicated for use by persons in substance use recovery who have other mental health disorders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/16/2020)

1 AN ACT concerning the regulation and categorization of sober
2 living homes, and amending various parts of the statutory law.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1975, c.305 (C.26:2B-8) is amended to read
8 as follows:

9 2. **【The following words as】** As used in P.L.1975, c.305
10 (C.26:2B-7 et seq.) **【shall, unless the context requires otherwise,**
11 have the following meanings**】**:

12 "Administrator" means the person in charge of the operation of a
13 facility, or his designee.

14 "Admitted" means accepted for treatment at a facility.

15 "Alcoholic" means a person with an alcohol use disorder, as
16 defined in this section.

17 "Authorized persons" means persons who serve as volunteer first
18 aid or ambulance squad members, para-professional medical
19 personnel, and rehabilitated persons with alcohol use disorder.

20 "Commissioner" means the Commissioner of **【Health】** Human
21 Services.

22 "Department" means the Department of **【Health】** Human
23 Services.

24 "Director" means the Director of the Division of **【Alcoholism】**
25 Mental Health and Addiction Services.

26 "Division" means the Division of **【Alcoholism】** Mental Health
27 and Addiction Services in the Department of Human Services.

28 "Facility" means any public**【,】** or private place, or portion
29 thereof **【providing】** , which provides services especially designed
30 for the treatment of intoxicated persons or the treatment or recovery
31 of persons with an alcohol use disorder**【;】**, including, but not
32 limited to, intoxication treatment centers, inpatient treatment
33 facilities, outpatient treatment facilities, and residential aftercare
34 facilities such as transitional sober living homes, otherwise known
35 as recovery residences, and halfway houses.

36 "Incapacitated" means the condition of a person who **【is: a.】**, as
37 a result of the use of alcohol**【,】** : is unconscious or has judgment so
38 impaired that the person is incapable of realizing, and making a
39 rational decision with respect to, the person's need for treatment **【,**
40 **b.】** is in need of substantial medical attention**【,】**; or **【c.】** is likely
41 to suffer substantial physical harm.

42 "Independent physician" means a physician other than one
43 holding an office or appointment in any department, board, or
44 agency of the State, or in any public facility.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Intoxicated person" means a person whose mental or physical
2 functioning is substantially impaired as a result of the use of
3 alcoholic beverages.

4 "Patient" means any person admitted to a facility.

5 "Person with an alcohol use disorder" means any person who
6 chronically, habitually, or periodically consumes alcoholic
7 beverages to the extent that: **[a.]** such use substantially injures the
8 person's health or substantially interferes with the person's social or
9 economic functioning in the community on a continuing basis**[,]**; or
10 **[b.]** the person has lost the power of self-control with respect to the
11 use of such beverages.

12 "Private facility" means a facility other than one operated by the
13 federal government, the State of New Jersey, or any political
14 subdivision thereof.

15 "Public facility" means a facility operated by the State of New
16 Jersey or any political subdivision thereof.

17 "Recovery" means a period of time, following the completion of
18 treatment for an alcohol use disorder, during which a patient
19 receives transitional care, support, and sober housing to facilitate
20 the patient's successful transition back into the community-at-large
21 as a sober individual.

22 "Treatment" means services and programs for the care or
23 rehabilitation of intoxicated persons and persons with an alcohol
24 use disorder, including, but not limited to, medical, psychiatric,
25 psychological, vocational, educational, recreational, and social
26 services and programs. "Treatment" does not include services and
27 programs that are provided for the transitional care or housing of a
28 patient who is in recovery from an alcohol use disorder, following
29 the receipt of treatment therefor.

30 (cf: P.L.2017, c.131, s.70)

31
32 2. Section 6 of P.L.1975, c.305 (C.26:2B-12) is amended to
33 read as follows:

34 6. a. The department shall take cognizance of all matters
35 affecting alcohol use disorder in the State, and shall establish and
36 conduct a program for the treatment of intoxicated persons and
37 persons with an alcohol use disorder.

38 The program may encourage the regionalization of services and,
39 if not otherwise available, shall provide for the following facilities,
40 which need not be separately located:

41 **[a.]** (1) Intoxication treatment centers, which centers shall
42 render emergency medical care, including detoxification, shall be
43 open 24 hours every day, and shall be located conveniently near
44 population centers. Services shall be provided for the immediate
45 physical and social needs, including the needs for medication and
46 shelter, of intoxicated persons, and shall also provide for initial
47 examination, diagnosis, and referral. To the extent possible, such
48 treatment centers shall be affiliated with a general or other hospital.

1 **【b.】** (2) Inpatient facilities**【,】** for treatment of persons with an
2 alcohol use disorder, which shall, to the extent possible, be
3 affiliated with the medical service of a general hospital, mental
4 hospital, community mental health center, or other hospital.

5 **【c.】** (3) Outpatient facilities for treatment of persons with an
6 alcohol use disorder.

7 **【d.】** (4) Residential aftercare facilities, such as halfway houses
8 or transitional sober living homes, which provide community
9 housing and support to persons in recovery from an alcohol use
10 disorder who do not have any other documented co-occurring
11 mental health disorders; and

12 (5) Residential aftercare facilities, such as halfway houses or
13 transitional sober living homes, which provide community housing
14 and support to persons in recovery from an alcohol use disorder
15 who have at least one other documented co-occurring mental health
16 disorder.

17 b. The department shall maintain, supervise, and control all
18 facilities operated by it pursuant to P.L.1975, c.305 (C.26:2B-
19 7 et seq.), and all such facilities shall be staffed with an adequate
20 number of qualified and trained personnel. The department shall
21 require at least one mental health care professional to be on-call or
22 on-site, at all times, at any residential aftercare facility operating
23 under paragraph (5) of subsection a. of this section, which provides
24 services to recovering alcoholics who have other documented co-
25 occurring mental health disorders.

26 c. The administrator of each **【such】** facility shall make an
27 annual report of its activities to the director in such manner and
28 form as the director may deem appropriate. All appropriate
29 resources, particularly community mental health centers, shall
30 **【whenever possible】** be utilized in, and coordinated with, the
31 program whenever possible.

32 d. **【Services】** (1) Recovery services delivered by the
33 department pursuant to P.L.1975, c.305 (C.26:2B-7 et seq.) shall
34 not be administered on the premises of any institution that is
35 operated, in whole or in part, by the Department of Institutions and
36 Agencies.

37 (2) Treatment services delivered by the department pursuant to
38 P.L.1975, c.305 (C.26:2B-7 et seq.) may be administered on the
39 premises of **【institutions】** an institution that is operated, in whole or
40 in part, by the **【department of institutions and agencies. Such】**
41 Department of Institutions and Agencies, except that any such
42 treatment services shall be administered **【as such services are】** in
43 the same way that they are administered in the other facilities of the
44 department, and shall, in all respects, be therapeutic in nature rather
45 than penal or correctional.

46 e. The department shall annually prepare **【and】**, publish
47 **【annually】**, and post at a publicly accessible location on its Internet

1 website, a list of all **【services】** facilities operating in accordance
2 with P.L.1975, c.305 (C.26:2B-7 et seq.), which remain in good
3 standing with the department, and shall make a hard copy of the list
4 available, upon request, to members of the public. The department
5 shall notify all law enforcement agencies and judges in the State of
6 the location and capacity of intoxication treatment centers and other
7 **【services】** facilities operating in accordance with **【this act】**
8 P.L.1975, c.305 (C.26:2B-7 et seq.), which are situated in or near
9 their jurisdictions.

10 (cf: P.L.2017, c.131, s.73)

11
12 3. Section 2 of P.L.1970, c.334 (C.26:2G-22) is amended to
13 read as follows:

14 2. As used in this act:

15 “Commissioner” means the Commissioner of Human Services.

16 “Department” means the Department of Human Services.

17 “Narcotic drug” means any narcotic, drug, or dangerous
18 controlled substance, as defined in any law of the State of New
19 Jersey or of the United States.

20 "Narcotic **【and substance】** drug use disorder treatment or
21 recovery center" means any public or private establishment, facility,
22 or institution, **【public or private,】** whether operated for profit or
23 not, which primarily offers, or purports to offer, maintain, or
24 operate facilities for the residential or outpatient diagnosis, care,
25 treatment, **【or】** rehabilitation , or transitional sober living and
26 recovery of two or more nonrelated individuals**【,】** who are patients
27 as defined herein**【, excluding, however,】** . “Narcotic drug use
28 disorder treatment or recovery center” does not include any hospital
29 or mental hospital otherwise licensed **【by】** pursuant to Title 30 of
30 the Revised Statutes.

31 "Patient" means a person who is addicted to, or otherwise has a
32 physical or mental impairment from the use of, narcotic drugs , or
33 who is in recovery from such addiction or physical or mental
34 suffering, and who requires the continuing care of a narcotic **【and**
35 **substance】** drug use disorder treatment or recovery center.

36 **【“Narcotic drug”** means any narcotic, drug, or dangerous
37 controlled substance, as defined in any law of the State of New
38 Jersey or of the United States.

39 "Commissioner" means the Commissioner of Health.**】**

40 “Person with a narcotic drug use disorder” means any person
41 who chronically, habitually, or periodically consumes narcotic
42 drugs to the extent that: such use substantially injures the person’s
43 health or substantially interferes with the person’s social or
44 economic functioning in the community on a continuing basis; or
45 the person has lost the power of self-control with respect to the use
46 of such narcotic drugs.

1 “Recovery” means a period of time, following the completion of
2 treatment for narcotic drug use disorder, during which a patient
3 receives transitional care, support, and sober housing to facilitate
4 the patient’s successful transition back into the community-at-large
5 as a sober individual.

6 “Treatment” means services and programs for the care or
7 rehabilitation of persons with a narcotic drug use disorder,
8 including, but not limited to, medical, psychiatric, psychological,
9 vocational, educational, recreational, and social services and
10 programs. “Treatment” does not include services and programs that
11 are provided for the transitional care, support, or housing of a
12 patient who is in recovery from a narcotic drug use disorder,
13 following the receipt of treatment therefor.

14 (cf: P.L.2017, c.131, s.88)

15
16 4. Section 3 of P.L.1970, c.334 (C.26:2G-23) is amended to
17 read as follows:

18 3. No narcotic **【and substance】** drug use disorder treatment or
19 recovery center shall operate within this State, except pursuant to a
20 certificate of approval obtained from the commissioner**【,】** upon
21 application made therefor. Such application shall be made upon
22 forms furnished by the commissioner**【,】** and shall set forth the
23 location of the narcotic **【and substance】** drug use disorder treatment
24 or recovery center, the person in charge thereof, and the facilities
25 for caring for patients who may seek treatment or engage in
26 recovery therein. The applicant shall be required to furnish
27 evidence of its ability to comply with minimum standards
28 established hereunder, and of the good moral character of the
29 applicant and the person in charge of the narcotic **【and substance】**
30 drug use disorder treatment or recovery center. Any change in the
31 facts set forth in the application shall be reported to the
32 commissioner within 10 days after the occurrence thereof.

33 (cf: P.L.2017, c.131, s.89)

34
35 5. Section 4 of P.L.1970, c.334 (C.26:2G-24) is amended to
36 read as follows:

37 4. a. Upon receipt of an application for a certificate of
38 approval, the commissioner shall cause an investigation to be made
39 of the applicant and the facilities, and shall issue a certificate of
40 approval if it is found that the applicant is of good moral character,
41 and that the facilities comply with the provisions of **【this act】**
42 P.L.1970, c.334 (C.26:2G-21 et seq.), and **【with】** the regulations
43 and standards **【required】** adopted by the commissioner pursuant
44 hereto. The certificate of approval shall not be transferable or
45 assignable or applicable to any premises or proprietor other than
46 those specified therein. The certificate shall be conspicuously

1 displayed within the narcotic **【and substance】** drug use disorder
2 treatment or recovery center at all times.

3 b. The department shall annually prepare, publish, and post at a
4 publicly accessible location on its Internet website, a list of all
5 narcotic drug use disorder treatment or recovery centers operating
6 in accordance with P.L.1970, c.334 (C.26:2G-21 et seq.), which
7 remain in good standing with the department, and shall make a hard
8 copy of the list available, upon request, to members of the public.
9 (cf: P.L.2017, c.131, s.90)

10
11 6. Section 5 of P.L.1970, c.334 (C.26:2G-25) is amended to
12 read as follows:

13 5. a. The commissioner shall adopt, amend, promulgate and
14 enforce such rules, regulations, and minimum standards for the
15 treatment of patients of narcotic **【and substance】** drug use disorder
16 treatment or recovery centers, as may be reasonably necessary to
17 accomplish the purposes of P.L.1970, c.334 (C.26:2G-21 et seq.).
18 Such narcotic **【and substance】** drug use disorder treatment or
19 recovery centers may be classified into two or more classes with
20 appropriate rules, regulations, and minimum standards for each such
21 class. The department's facility classification system shall account
22 for all types of narcotic drug use disorder treatment or recovery
23 centers, including, but not limited to:

24 (1) facilities that provide patients with detoxification,
25 medication-assisted treatment, or other intensive or emergency-
26 level treatment for a narcotic drug use disorder on an inpatient
27 basis;

28 (2) facilities that provide patients with detoxification,
29 medication-assisted treatment, or other treatment for a narcotic drug
30 use disorder on an outpatient basis;

31 (3) residential aftercare facilities, such as halfway houses and
32 transitional sober living homes, which help persons who are in
33 recovery from a substance use disorder, and who have no other co-
34 occurring mental health disorders, make a successful and sober
35 transition back into the community-at-large following their
36 successful completion of treatment for a substance use disorder; and

37 (4) residential aftercare facilities, such as halfway houses and
38 transitional sober living homes, which help persons who are in
39 recovery from a substance use disorder, and who have one or more
40 co-occurring mental health disorders, make a successful recovery
41 and sober transition back into the community-at-large following
42 their successful completion of treatment for a substance use
43 disorder.

44 b. **【No】** A narcotic **【or drug abuse】** and substance use disorder
45 treatment or recovery center, including, but not limited to, a
46 transitional sober living home, halfway house, or other residential
47 aftercare facility, shall not be permitted to deny admission to a
48 prospective client on the basis that the person is currently receiving

1 medication assisted treatment for a substance use disorder
2 administered by a licensed treatment provider, including but not
3 limited to methadone, buprenorphine, naltrexone, or any other
4 medication approved by the Food and Drug Administration for the
5 treatment of a substance use disorder.

6 c. The rules and regulations adopted pursuant to this section
7 shall, at a minimum~~],]~~:

8 (1) require at least one licensed mental health care professional
9 to be on-call or on-site, at all times, at any transitional sober living
10 home, halfway house, or other residential aftercare facility
11 categorized under paragraph (4) of subsection a. of this section,
12 which provides services to persons in recovery who have other
13 documented co-occurring mental health disorders; and

14 (2) require a transitional sober living home, halfway house, or
15 other residential aftercare facility categorized under either
16 paragraph (3) or (4) of subsection a. of this section to provide notice
17 to a patient's spouse, parent, legal guardian, designated next of kin,
18 or other designated emergency contact, whenever the patient
19 voluntarily withdraws, or is involuntarily evicted from, such
20 facility, provided that: **[(1)]** (a) such notice is provided in a
21 manner that is consistent with federal requirements under 42 CFR
22 Part 2 and federal HIPAA requirements under 45 CFR Parts 160
23 and 164; and **[(2)]** (b) the patient, if an adult, has not withheld
24 consent for such notice or expressly requested that notification not
25 be given. If a patient who is not incapacitated withholds consent
26 for **[such]** the notice that is to be provided under this paragraph, or
27 expressly requests that such notification not be given, the
28 department shall require the patient's wishes to be respected, unless
29 the patient is a minor child or adolescent, in which case, the
30 department shall require the minor's parent, legal guardian,
31 designated next of kin, or other designated emergency contact to be
32 notified, provided that such notification is not inconsistent with, and
33 would not violate, federal requirements under 42 CFR Part 2 and
34 federal HIPAA requirements under 45 CFR Parts 160 and 164.

35 (cf: P.L.2017, c.256, s.2)

36
37 7. Section 8 of P.L.1970, c.334 (C.26:2G-28) is amended to
38 read as follows:

39 8. Any person, firm, corporation, partnership, society or
40 association who shall operate or conduct a narcotic **[and substance]**
41 drug use disorder treatment or recovery center without first
42 obtaining the certificate of approval required by **[this act]**
43 P.L.1970, c.334 (C.26:2G-21 et seq.), or who shall operate such
44 establishment after revocation or suspension of a certificate of
45 approval, shall be liable to a penalty of \$25 for each day of
46 operation in violation hereof for the first offense, and, for any

1 subsequent offense, shall be liable to a penalty of \$50 for each day
2 of operation in violation hereof.

3 The penalties authorized by this section shall be recovered in a
4 summary proceeding instituted by the Attorney General, at the
5 request of the commissioner, pursuant to the "Penalty Enforcement
6 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Money
7 penalties, when recovered, shall be payable to the General State
8 Fund.

9 (cf: P.L.2017, c.131, s.92)

10

11 8. Section 9 of P.L.1970, c.334 (C.26:2G-29) is amended to
12 read as follows:

13 9. The commissioner may, in the manner provided by law,
14 maintain an action in the name of the State of New Jersey for
15 injunctive relief against any person, firm, corporation, partnership,
16 society or association, which is continuing to conduct, manage, or
17 operate a narcotic **and substance** drug use disorder treatment or
18 recovery center without a certificate of approval, or after suspension
19 or revocation of such certificate.

20 (cf: P.L.2017, c.131, s.93)

21

22 9. Section 1 of P.L.1982, c.149 (C.26:2H-11.1) is amended to
23 read as follows:

24 1. In the case of an application for a certificate of need or
25 initial licensure, as applicable, for a narcotic **and** drug **abuse**
26 use disorder treatment or recovery center to be located within 500
27 feet from any building in this State used for the instruction of
28 children between the ages of five and 18 years, the applicant shall
29 notify the governing body of the municipality within which the
30 applicant proposes to locate the treatment or recovery center of the
31 applicant's intention to apply for the certificate of need or licensure
32 and the proposed location of the center. Documentation of the
33 notice shall be filed with the certificate of need or license
34 application. The Commissioner of Health is hereby authorized to
35 adopt reasonable rules and regulations, in accordance with the
36 provisions of the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.), to effectuate the purposes of this **act**
38 section. **For the purposes of** As used in this **act**, the definition
39 of **section**, "narcotic **and** drug **abuse** use disorder treatment or
40 recovery center" **shall be identical to the definition in subsection**
41 **(a) of** means the same as that term is defined by section 2 of
42 P.L.1970, c.334 (C.26:2G-22). **This act** The provisions of this
43 section shall not apply to any narcotic **and** drug **abuse** use
44 disorder treatment or recovery center for which an application was
45 filed prior to the effective date of this **act** section.

46 (cf: P.L.2012, c.17, s.177)

1 10. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to read
2 as follows:

3 6. a. Subject to the requirements of Title XIX of the federal
4 Social Security Act~~[,] and~~ the limitations imposed by ~~["this act"]~~
5 P.L.1968, c.413 (C.30:4D-1 et seq.) and ~~["by"]~~ the rules and
6 regulations promulgated pursuant thereto, the department shall
7 provide medical assistance to qualified applicants, including
8 authorized services within each of the following classifications:

- 9 (1) Inpatient hospital services;
10 (2) Outpatient hospital services;
11 (3) Other laboratory and X-ray services;
12 (4) (a) Skilled nursing or intermediate care facility services;
13 (b) Early and periodic screening and diagnosis of individuals
14 who are eligible under the program and are under age 21, to
15 ascertain their physical or mental health status and the health care,
16 treatment, and other measures to correct or ameliorate defects and
17 chronic conditions discovered thereby, as may be provided in
18 regulations of the Secretary of the federal Department of Health and
19 Human Services and approved by the commissioner;
20 (5) Physician's services furnished in the office, the patient's
21 home, a hospital, a skilled nursing, or intermediate care facility or
22 elsewhere.

23 As used in this subsection, "laboratory and X-ray services"
24 includes HIV drug resistance testing, including, but not limited to,
25 genotype assays that have been cleared or approved by the federal
26 Food and Drug Administration, laboratory developed genotype
27 assays, phenotype assays, and other assays using phenotype
28 prediction with genotype comparison, for persons diagnosed with
29 HIV infection or AIDS.

30 b. Subject to the limitations imposed by federal law, by ~~["this~~
31 ~~act"]~~ P.L.1968, c.413 (C.30:4D-1 et seq.), and by the rules and
32 regulations promulgated pursuant thereto, the medical assistance
33 program may be expanded to include authorized services within
34 each of the following classifications:

- 35 (1) Medical care not included in subsection a.(5) above, or any
36 other type of remedial care recognized under State law, furnished
37 by licensed practitioners within the scope of their practice, as
38 defined by State law;
39 (2) Home health care services;
40 (3) Clinic services;
41 (4) Dental services;
42 (5) Physical therapy and related services;
43 (6) Prescribed drugs, dentures, and prosthetic devices; and
44 eyeglasses prescribed by a physician skilled in diseases of the eye
45 or by an optometrist, whichever the individual may select;
46 (7) Optometric services;
47 (8) Podiatric services;
48 (9) Chiropractic services;

- 1 (10) Psychological services;
- 2 (11) Inpatient psychiatric hospital services for individuals under
- 3 21 years of age, or under age 22 if they are receiving such services
- 4 immediately before attaining age 21;
- 5 (12) Other diagnostic, screening, preventive, and rehabilitative
- 6 services, and other remedial care;
- 7 (13) Inpatient hospital services, nursing facility services, and
- 8 intermediate care facility services for individuals 65 years of age or
- 9 over in an institution for mental diseases;
- 10 (14) Intermediate care facility services;
- 11 (15) Transportation services;
- 12 (16) Services in connection with the inpatient or outpatient
- 13 treatment or care of **【substance】**, or recovery from, a drug use
- 14 disorder, when **【the treatment is】** such services are prescribed by a
- 15 physician **【and】**, are provided in a licensed hospital or in a narcotic
- 16 and substance use disorder treatment center approved by the
- 17 Department of Health pursuant to P.L.1970, c.334 (C.26:2G-21 et
- 18 seq.) and whose staff includes a medical director, and **【limited to**
- 19 those services**】** are eligible for federal financial participation under
- 20 Title XIX of the federal Social Security Act;
- 21 (17) Any other medical care and any other type of remedial care
- 22 recognized under State law, specified by the Secretary of the federal
- 23 Department of Health and Human Services, and approved by the
- 24 commissioner;
- 25 (18) Comprehensive maternity care, which may include: the
- 26 basic number of prenatal and postpartum visits recommended by the
- 27 American College of Obstetrics and Gynecology; additional
- 28 prenatal and postpartum visits that are medically necessary;
- 29 necessary laboratory, nutritional assessment and counseling, health
- 30 education, personal counseling, managed care, outreach, and
- 31 follow-up services; treatment of conditions which may complicate
- 32 pregnancy; doula care and physician or certified nurse-midwife
- 33 delivery services. For the purposes of this paragraph, "doula"
- 34 means a trained professional who provides continuous physical,
- 35 emotional, and informational support to a mother before, during,
- 36 and shortly after childbirth, to help her to achieve the healthiest,
- 37 most satisfying experience possible;
- 38 (19) Comprehensive pediatric care, which may include:
- 39 ambulatory, preventive, and primary care health services. The
- 40 preventive services shall include, at a minimum, the basic number
- 41 of preventive visits recommended by the American Academy of
- 42 Pediatrics;
- 43 (20) Services provided by a hospice which is participating in
- 44 the Medicare program established pursuant to Title XVIII of the
- 45 Social Security Act, Pub.L.89-97 (42 U.S.C. s.1395 et seq.).
- 46 Hospice services shall be provided subject to approval of the

1 Secretary of the federal Department of Health and Human Services
2 for federal reimbursement;

3 (21) Mammograms, subject to approval of the Secretary of the
4 federal Department of Health and Human Services for federal
5 reimbursement, including one baseline mammogram for women
6 who are at least 35 but less than 40 years of age; one mammogram
7 examination every two years or more frequently, if recommended
8 by a physician, for women who are at least 40 but less than 50 years
9 of age; and one mammogram examination every year for women
10 age 50 and over;

11 (22) Upon referral by a physician, advanced practice nurse, or
12 physician assistant of a person who has been diagnosed with
13 diabetes, gestational diabetes, or pre-diabetes, in accordance with
14 standards adopted by the American Diabetes Association:

15 (a) Expenses for diabetes self-management education or training
16 to ensure that a person with diabetes, gestational diabetes, or pre-
17 diabetes can optimize metabolic control, prevent and manage
18 complications, and maximize quality of life. Diabetes self-
19 management education shall be provided by an in-State provider
20 who is:

21 (i) a licensed, registered, or certified health care professional
22 who is certified by the National Certification Board of Diabetes
23 Educators as a Certified Diabetes Educator, or certified by the
24 American Association of Diabetes Educators with a Board
25 Certified-Advanced Diabetes Management credential, including, but
26 not limited to: a physician, an advanced practice or registered nurse,
27 a physician assistant, a pharmacist, a chiropractor, a dietitian
28 registered by a nationally recognized professional association of
29 dietitians, or a nutritionist holding a certified nutritionist specialist
30 (CNS) credential from the Board for Certification of Nutrition
31 Specialists; or

32 (ii) an entity meeting the National Standards for Diabetes Self-
33 Management Education and Support, as evidenced by a recognition
34 by the American Diabetes Association or accreditation by the
35 American Association of Diabetes Educators;

36 (b) Expenses for medical nutrition therapy as an effective
37 component of the person's overall treatment plan upon a: diagnosis
38 of diabetes, gestational diabetes, or pre-diabetes; change in the
39 beneficiary's medical condition, treatment, or diagnosis; or
40 determination of a physician, advanced practice nurse, or physician
41 assistant that reeducation or refresher education is necessary.
42 Medical nutrition therapy shall be provided by an in-State provider
43 who is a dietitian registered by a nationally-recognized professional
44 association of dietitians, or a nutritionist holding a certified
45 nutritionist specialist (CNS) credential from the Board for
46 Certification of Nutrition Specialists, who is familiar with the
47 components of diabetes medical nutrition therapy;

1 (c) For a person diagnosed with pre-diabetes, items and services
2 furnished under an in-State diabetes prevention program that meets
3 the standards of the National Diabetes Prevention Program, as
4 established by the federal Centers for Disease Control and
5 Prevention; and

6 (d) Expenses for any medically appropriate and necessary
7 supplies and equipment recommended or prescribed by a physician,
8 advanced practice nurse, or physician assistant for the management
9 and treatment of diabetes, gestational diabetes, or pre-diabetes,
10 including, but not limited to: equipment and supplies for self-
11 management of blood glucose; insulin pens; insulin pumps and
12 related supplies; and other insulin delivery devices;

13 (23) Expenses incurred for the provision of group prenatal care
14 services to a pregnant woman, provided that:

15 (a) the provider of such services, which shall include, but not be
16 limited to, a federally qualified health center or a community health
17 center operating in the State:

18 (i) is a site accredited by the Centering Healthcare Institute, or
19 is a site engaged in an active implementation contract with the
20 Centering Healthcare Institute, that utilizes the Centering Pregnancy
21 model; and

22 (ii) incorporates the applicable information outlined in any best
23 practices manual for prenatal and postpartum maternal care
24 developed by the Department of Health into the curriculum for each
25 group prenatal visit;

26 (b) each group prenatal care visit is at least 1.5 hours in
27 duration, with a minimum of two women and a maximum of 20
28 women in participation; and

29 (c) no more than 10 group prenatal care visits occur per
30 pregnancy.

31 As used in this paragraph, "group prenatal care services" means a
32 series of prenatal care visits provided in a group setting, which are
33 based upon the Centering Pregnancy model developed by the
34 Centering Healthcare Institute, and which include health
35 assessments, social and clinical support, and educational activities;
36 and

37 (24) Expenses incurred for the provision of pasteurized donated
38 human breast milk, which shall include human milk fortifiers if
39 indicated in a medical order provided by a licensed medical
40 practitioner, to an infant under the age of six months; provided that
41 the milk is obtained from a human milk bank that meets quality
42 guidelines established by the Department of Health and a licensed
43 medical practitioner has issued a medical order for the infant under
44 at least one of the following circumstances:

45 (a) the infant is medically or physically unable to receive
46 maternal breast milk or participate in breast feeding, or the infant's
47 mother is medically or physically unable to produce maternal breast

1 milk in sufficient quantities or participate in breast feeding despite
2 optimal lactation support; or

3 (b) the infant meets any of the following conditions:

4 (i) the infant has a body weight below healthy levels, as
5 determined by the licensed medical practitioner issuing the medical
6 order for the infant;

7 (ii) the infant has a congenital or acquired condition that places
8 the infant at a high risk for development of necrotizing
9 enterocolitis; or

10 (iii) the infant has a congenital or acquired condition that may
11 benefit from the use of donor breast milk and human milk fortifiers,
12 as determined by the Department of Health.

13 c. Payments for the foregoing services, goods, and supplies
14 furnished pursuant to **【this act】** P.L.1968, c.413 (C.30:4D-
15 1 et seq.), shall be made to the extent authorized by **【this act,】**
16 P.L.1968, c.413 (C.30:4D-1 et seq.) and the rules and regulations
17 promulgated pursuant thereto, and, where applicable, shall be
18 subject to the agreement of insurance provided for under **【this act】**
19 P.L.1968, c.413 (C.30:4D-1 et seq.). The payments shall constitute
20 payment in full to the provider on behalf of the recipient. Every
21 provider making a claim for payment pursuant to **【this act】**
22 P.L.1968, c.413 (C.30:4D-1 et seq.) shall certify in writing on the
23 claim submitted that no additional amount will be charged to the
24 recipient, the recipient's family, the recipient's representative, or
25 others on the recipient's behalf for the services, goods, and supplies
26 furnished pursuant to **【this act】** P.L.1968, c.413 (C.30:4D-
27 1 et seq.).

28 No provider whose claim for payment pursuant to **【this act】**
29 P.L.1968, c.413 (C.30:4D-1 et seq.) has been denied because the
30 services, goods, or supplies were determined to be medically
31 unnecessary shall seek reimbursement from the recipient, his
32 family, his representative, or others on his behalf for such services,
33 goods, and supplies provided pursuant to **【this act】** P.L.1968, c.413
34 (C.30:4D-1 et seq.); provided, however, that a provider may seek
35 reimbursement from a recipient for services, goods, or supplies not
36 authorized by **【this act,】** P.L.1968, c.413 (C.30:4D-1 et seq.) if the
37 recipient elected to receive the services, goods, or supplies with the
38 knowledge that they were not authorized.

39 d. Any individual eligible for medical assistance (including
40 drugs) may obtain such assistance from any person qualified to
41 perform the service or services required (including an organization
42 which provides such services, or arranges for their availability on a
43 prepayment basis), who undertakes to provide the individual such
44 services.

45 No copayment or other form of cost-sharing shall be imposed on
46 any individual eligible for medical assistance, except as mandated
47 by federal law as a condition of federal financial participation.

1 e. Anything in **【this act】** P.L.1968, c.413 (C.30:4D-1 et seq.)
2 to the contrary notwithstanding, no payments for medical assistance
3 shall be made under **【this act】** P.L.1968, c.413 (C.30:4D-1 et seq.)
4 with respect to care or services for any individual who:

5 (1) Is an inmate of a public institution (except as a patient in a
6 medical institution); provided, however, that an individual who is
7 otherwise eligible may continue to receive services for the month in
8 which he becomes an inmate, should the commissioner determine to
9 expand the scope of Medicaid eligibility to include such an
10 individual, subject to the limitations imposed by federal law and
11 regulations, or

12 (2) Has not attained 65 years of age and **【who】** is a patient in an
13 institution for mental diseases, or

14 (3) Is over 21 years of age and **【who】** is receiving inpatient
15 psychiatric hospital services in a psychiatric facility; provided,
16 however, that an individual who was receiving such services
17 immediately prior to attaining age 21 may continue to receive such
18 services until the individual reaches age 22. Nothing in this
19 subsection shall prohibit the commissioner from extending medical
20 assistance to all eligible persons receiving inpatient psychiatric
21 services; provided that there is federal financial participation
22 available.

23 f. (1) A third party as defined in section 3 of P.L.1968, c.413
24 (C.30:4D-3) shall not consider a person's eligibility for Medicaid in
25 this or another state when determining the person's eligibility for
26 enrollment or the provision of benefits by that third party.

27 (2) In addition, any provision in a contract of insurance, health
28 benefits plan, or other health care coverage document, will, trust,
29 agreement, court order, or other instrument which reduces or
30 excludes coverage or payment for health care-related goods and
31 services to or for an individual because of that individual's actual or
32 potential eligibility for or receipt of Medicaid benefits shall be null
33 and void, and no payments shall be made under **【this act】** P.L.1968,
34 c.413 (C.30:4D-1 et seq.) as a result of any such provision.

35 (3) Notwithstanding any provision of law to the contrary, the
36 provisions of paragraph (2) of this subsection shall not apply to a
37 trust agreement that is established pursuant to 42 U.S.C. s.1396p
38 (d)(4)(A) or (C) to supplement and augment assistance provided by
39 government entities to a person who is disabled as defined in
40 section 1614(a)(3) of the federal Social Security Act (42 U.S.C.
41 s.1382c (a)(3)).

42 g. The following services shall be provided to eligible
43 medically needy individuals as follows:

44 (1) Pregnant women shall be provided prenatal care and delivery
45 services and postpartum care, including the services cited in
46 subsections a.(1), (3), and (5) of this section and subsections b.(1)-

1 (10), (12), (15), and (17) of this section, and nursing facility
2 services cited in subsection b.(13) of this section.

3 (2) Dependent children shall be provided with services cited in
4 subsections a.(3) and (5) of this section and subsections b.(1), (2),
5 (3), (4), (5), (6), (7), (10), (12), (15), and (17) of this section, and
6 nursing facility services cited in subsection b.(13) of this section.

7 (3) Individuals who are 65 years of age or older shall be
8 provided with services cited in subsections a.(3) and (5) of this
9 section and subsections b.(1)-(5), (6) excluding prescribed drugs,
10 (7), (8), (10), (12), (15), and (17) of this section, and nursing
11 facility services cited in subsection b.(13) of this section.

12 (4) Individuals who are blind or disabled shall be provided with
13 services cited in subsections a.(3) and (5) of this section and
14 subsections b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10),
15 (12), (15), and (17) of this section, and nursing facility services
16 cited in subsection b.(13) of this section.

17 (5) (a) Inpatient hospital services, subsection a.(1) of this
18 section, shall only be provided to eligible medically needy
19 individuals, other than pregnant women, if the federal Department
20 of Health and Human Services discontinues the State's waiver to
21 establish inpatient hospital reimbursement rates for the Medicare
22 and Medicaid programs under the authority of section 601(c)(3) of
23 the Social Security Act Amendments of 1983, Pub.L.98-21 (42
24 U.S.C. s.1395ww(c)(5)). Inpatient hospital services may be
25 extended to other eligible medically needy individuals if the federal
26 Department of Health and Human Services directs that these
27 services be included.

28 (b) Outpatient hospital services, subsection a.(2) of this section,
29 shall only be provided to eligible medically needy individuals if the
30 federal Department of Health and Human Services discontinues the
31 State's waiver to establish outpatient hospital reimbursement rates
32 for the Medicare and Medicaid programs under the authority of
33 section 601(c)(3) of the Social Security Amendments of 1983,
34 Pub.L.98-21 (42 U.S.C. s.1395ww(c)(5)). Outpatient hospital
35 services may be extended to all or to certain medically needy
36 individuals if the federal Department of Health and Human Services
37 directs that these services be included. However, the use of
38 outpatient hospital services shall be limited to clinic services and to
39 emergency room services for injuries and significant acute medical
40 conditions.

41 (c) The division shall monitor the use of inpatient and outpatient
42 hospital services by medically needy persons.

43 h. In the case of a qualified disabled and working individual
44 pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d), the
45 only medical assistance provided under **【this act】** P.L.1968, c.413
46 (C.30:4D-1 et seq.) shall be the payment of premiums for Medicare
47 part A under 42 U.S.C. ss.1395i-2 and 1395r.

1 i. In the case of a specified low-income Medicare beneficiary
2 pursuant to 42 U.S.C. s.1396a(a)10(E)iii, the only medical
3 assistance provided under **[this act]** P.L.1968, c.413 (C.30:4D-
4 1 et seq.) shall be the payment of premiums for Medicare part B
5 under 42 U.S.C. s.1395r as provided for in
6 42 U.S.C. s.1396d(p)(3)(A)(ii).

7 j. In the case of a qualified individual pursuant to 42 U.S.C.
8 s.1396a(aa), the only medical assistance provided under **[this act]**
9 P.L.1968, c.413 (C.30:4D-1 et seq.) shall be payment for authorized
10 services provided during the period in which the individual requires
11 treatment for breast or cervical cancer, in accordance with criteria
12 established by the commissioner.

13 k. In the case of a qualified individual pursuant to
14 42 U.S.C. s.1396a(ii), the only medical assistance provided under
15 **[this act]** P.L.1968, c.413 (C.30:4D-1 et seq.) shall be payment for
16 family planning services and supplies as described at
17 42 U.S.C. s.1396d(a)(4)(C), including medical diagnosis and
18 treatment services that are provided pursuant to a family planning
19 service in a family planning setting.

20 (cf: P.L.2019, c.317, s.1)

21
22 11. Section 2 of P.L.1974, c.120 (C.40:9B-4) is amended to read
23 as follows:

24 2. The governing body of any county or municipality may
25 annually appropriate funds to any approved, privately operated,
26 nonprofit narcotic **[and substance]** drug use disorder treatment or
27 recovery center certified by the Commissioner of Health pursuant to
28 P.L.1970, c.334 (C.26:2G-21 et seq.), for the purpose of helping to
29 defray expenses incurred in the provision of such facilities to
30 prevent and control **[substance]** narcotic drug use **[disorder]**
31 disorders, and to provide for the diagnosis, treatment, rehabilitation
32 and aftercare **[to]** of persons with **[substance]** narcotic drug use
33 disorders who are residents of **[any]** the county or municipality
34 making such appropriations.

35 (cf: P.L.2017, c.131, s.167)

36
37 12. This act shall take effect on the 120th day after the date of
38 enactment, except that the Department of Human Services may take
39 such anticipatory administrative action in advance of the effective
40 date as shall be necessary for the implementation of this act.

41 42 43 STATEMENT

44
45 This bill would make various changes to the statutory law, in
46 order to clarify and strengthen the law pertaining to alcohol
47 treatment facilities and narcotic and substance use disorder

1 treatment centers (collectively referred to in this statement as
2 “substance use disorder treatment facilities”). In particular, the bill
3 would:

4 (1) expressly clarify that the Department of Human Services
5 (DHS) has licensing and regulatory authority over residential
6 substance use disorder aftercare facilities, including transitional
7 sober living homes (otherwise known as recovery residences) and
8 halfway houses, pursuant to the provisions of N.J.S.A.26:2B-
9 7 et seq. and N.J.S.A.26:2G-21 et seq.; and

10 (2) clarify that residential aftercare facilities are to be
11 categorized into two distinct classes: (a) residential aftercare
12 facilities that provide services to persons who are recovering from a
13 substance use disorder and who also have other documented, co-
14 occurring mental health disorders; and (b) residential aftercare
15 facilities that provide services to persons who are recovering from a
16 substance use disorder, but who do not have any other documented
17 co-occurring mental health disorders.

18 The bill would require those residential aftercare facilities in the
19 former group to have a licensed mental health care professional on-
20 site or on-call, at all times, in order to ensure that proper supports
21 are available to recovering addicts to prevent their other mental
22 health issues from hindering their progress in recovery.

23 The bill would also require the DHS to annually publish and post
24 on its Internet website, a list of all substance use disorder treatment
25 facilities, including the residential aftercare facilities listed above,
26 which remain in good standing; and to provide a hard copy of such
27 list to members of the public, upon request.

28 Finally, the bill would update the language used in the existing
29 law, in order to ensure that it is consistent with current terminology
30 and rules of statutory drafting. Most significantly, the bill would
31 change the term “narcotic and substance use disorder treatment
32 center” to “narcotic drug use disorder treatment or recovery center,”
33 in order to reflect the fact that the DHS is responsible for regulating
34 facilities that provide either treatment or recovery services. The bill
35 would also clarify that the law at N.J.S.A.26:2G-21 is applicable
36 only to facilities that provide services to persons with drug use
37 disorders (as opposed to facilities that provide services to persons
38 with any and all substance use disorders, whether drug or alcohol
39 related). Previous amendments to this law made an incorrect
40 change to reference all “substance use disorders” (a term that, under
41 existing regulations, includes both alcohol use disorders and drug
42 use disorders). The use of that terminology, however, is
43 inconsistent with the existing statutes, which incorporate separate
44 chapters pertaining, respectively, to alcohol use disorders, and to
45 drug use disorders. Accordingly, the bill would clarify this
46 terminology to eliminate confusion.

47 This bill is intended to ensure that sober living homes in the
48 State are subject to appropriate and uniform licensure, oversight,

1 and inspection requirements, as necessary to ensure the quality of
2 care provided throughout the recovery stage of substance use
3 disorder treatment. Addiction is a serious and potentially fatal
4 disease. However, unlike other diseases, the disease of addiction
5 often cannot be successfully redressed through inpatient or
6 outpatient treatment alone. Instead, the success of addiction
7 treatment requires the implementation of a full continuum of
8 addiction care, which includes not only medical and substance use
9 disorder treatment services, but also continuing care and recovery
10 services, supports, and housing, which are made available to addicts
11 after the completion of their formal treatment, but prior to their
12 complete transition into the community as sober individuals.
13 Because the housing and other supports provided by sober living
14 homes are often necessary to ensure that a person with a substance
15 use disorder is successful in their treatment and recovery from
16 addiction, it is both reasonable and necessary for the State to
17 regulate these homes as part of the State's existing addiction
18 treatment continuum of care.

19 Although the DHS currently has authority to regulate all
20 substance use disorder treatment facilities in the State, including
21 residential aftercare facilities such as halfway houses, the
22 department has concluded that it does not have authority to regulate
23 transitional sober living homes, because those homes do not provide
24 "treatment" services to persons who are in recovery from a
25 substance use disorder following the receipt of treatment therefor.
26 While some types of sober living home remain subject to minimal
27 oversight as rooming or boarding houses, pursuant to regulations
28 adopted by the Department of Community Affairs, other types of
29 sober living home are treated as ordinary residences, and, on that
30 basis, are fully exempted from any State oversight. However, it is
31 the sponsor's belief that successful recovery is an integral part of
32 effective substance use disorder treatment, and that sober living
33 homes, regardless of type, are distinct from ordinary residences,
34 since they are designed and intended to provide the essential
35 supports and housing necessary to ensure that the treatment of a
36 recovering addict is successful in leading to a full recovery from the
37 addiction for which treatment was sought.

38 Without proper and sufficient State oversight, sober living homes
39 may fail to provide effective supports to recovering substance users,
40 or may provide a living environment that is not conducive, or that
41 runs counter, to successful recovery. In so doing, they may
42 jeopardize or undermine the treatment that recovering substance
43 users have undergone before entering the sober living home,
44 thereby threatening the health and wellness of persons in recovery.
45 Improper and unethical sober living home management has already
46 been well documented in the media, and has been shown to cause
47 injury to residents.

1 It is the State's responsibility to ensure that vulnerable persons
2 who have received treatment and are in recovery from addiction are
3 provided with safe and healthy housing and effective supports, as
4 necessary to promote their recovery and enable them to succeed as
5 sober individuals living in the community. This bill will ensure that
6 the State has the ability to do so. The inclusion of sober living
7 homes within the State's continuum of addiction care will also
8 provide regulatory uniformity in this area by ensuring that all types
9 of residential aftercare facilities, including halfway houses and
10 recovery residences, are subject to the same licensure, oversight,
11 and inspection requirements, and are all regulated by a single State
12 agency with expertise in matters affecting substance use disorder
13 treatment and aftercare.