SENATE, No. 493

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator CHRIS A. BROWN
District 2 (Atlantic)
Senator JOSEPH F. VITALE
District 19 (Middlesex)

Co-Sponsored by:
Senators T.Kean and Beach

SYNOPSIS

Requires DOH to approve credentialing entity to develop and administer a voluntary recovery residence certification program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the voluntary certification of recovery residences, and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. As used in this act:

"Certificate of compliance" means a certificate, which is issued by the credentialing entity to a recovery residence, and which affirms that the recovery residence is in compliance with all requirements necessary for certification, and is authorized to hold itself out to the public as a certified recovery residence.

"Certified recovery residence" means a recovery residence that holds a valid certificate of compliance issued pursuant to this act.

"Certified recovery residence administrator" means a recovery residence administrator who holds a valid professional certification issued pursuant to this act.

"Credentialing entity" means a nonprofit organization, operating in New Jersey, which develops and administers professional certification programs, and which is approved by the department to develop and administer a recovery residence certification program in this State, in accordance with the provisions of this act.

"Department" means the Department of Health.

"Peer-managed facility" means a recovery residence that is not directly managed, on a day-to-day basis, by a recovery residence administrator, but which, instead, is self-managed, on a cooperative basis, by the residents in recovery who are renting rooms at the facility.

"Professional certification" means a certificate that is issued by the credentialing entity to a recovery residence administrator, and which affirms that the administrator is in compliance with all applicable professional certification requirements, and has been deemed to be capable of managing a certified recovery residence.

"Professionally-managed facility" means a recovery residence that is directly managed by a recovery residence administrator, and is not a peer-managed facility.

"Recovery residence" means housing with a home-like atmosphere, which is available in either a professionally-managed facility or a peer-managed facility, and which provides a sober living environment and alcohol and drug free living accommodations to individuals with substance use disorders, or to individuals with co-occurring mental health and substance use disorders, but which does not provide clinical treatment services for mental health or substance use disorders. "Recovery residence" includes, but is not limited to, a facility that is commonly referred to as a sober living home.

"Recovery residence administrator" means the owner or operator of a recovery residence, who is responsible for the overall

management of the recovery residence, including, but not limited to, the supervision of residents and staff; and who does not reside in the recovery residence. "Recovery residence administrator" does not include the owner or operator of a recovery residence who manages the recovery residence while residing therein.

"Recovery residence certification program" means the program established by the credentialing entity, pursuant to section 2 of this act, which provides for the voluntary certification of recovery residences, and the professional certification of recovery residence administrators.

"Refer" means to inform a current or discharged patient, by any means or method, about the name, address, or other details of a recovery residence.

"Substance use disorder" means a maladaptive pattern of alcohol or drug use that leads to clinically significant impairment or distress. "Substance use disorder" includes drug or alcohol abuse or drug or alcohol dependency, as confirmed by a clinical screening and assessment instrument.

2. a. (1) Within 120 days after the enactment of this act, the department shall approve a credentialing entity to develop and administer a recovery residence certification program in the State. The recovery residence certification program shall be developed in accordance with the provisions of this section; shall be consistent with applicable standards adopted by the National Alliance for Recovery Residences (NARR); and shall become operational within 180 days after the credentialing entity is approved by the department pursuant to this subsection.

(2) Using a portion of the moneys annually appropriated to the department for its purposes, the department shall provide appropriate funds to the credentialing entity, on an annual basis, to enable the credentialing entity to fulfill its duties and responsibilities under this section.

b. In developing and implementing a recovery residence certification program, the credentialing entity shall:

(1) establish requirements for the voluntary certification of recovery residences, and the annual recertification of certified recovery residences;

(2) establish requirements for the voluntary professional certification of recovery residence administrators, and the annual recertification of certified recovery residence administrators;

(3) establish criminal background check requirements for the administrators and employees of professionally-managed facilities, as deemed by the credentialing entity to be necessary;

(4) administer all aspects of the recovery residence certification program, and establish procedures as necessary to facilitate the application, certification, and annual recertification processes used in the program;

(5) engage in the on-site pre-certification inspection of recovery residences that apply for a certificate of compliance;

(6) issue a certificate of compliance to any recovery residence, upon application therefor; provided that the recovery residence is in compliance with the provisions of subsection d. of this section; has satisfactorily passed an on-site pre-certification inspection conducted pursuant to paragraph (5) of this subsection; and satisfies all additional requirements, established by the credentialing entity under paragraph (1) of this subsection, which are necessary for certification;

(7) issue a professional certification to any recovery residence administrator, upon application therefor; provided that the administrator satisfies all requirements, established by the credentialing entity under paragraph (2) of this subsection, which are necessary for professional certification;

(8) establish procedures and protocols for the regular monitoring and inspection of certified recovery residences, which procedures and protocols shall, at a minimum, require the credentialing entity to conduct at least one unannounced on-site inspection of each certified recovery residence, as a condition of annual recertification; and

(9) establish an Internet website to provide information to the public about the recovery residence certification program.

c. (1) Within 180 days after the recovery residence certification program becomes operational, the credentialing entity shall publish, on the website established pursuant to paragraph (9) of subsection b. of this section, a list that provides contact information for all of the recovery residences that have been issued a certificate of compliance in accordance with program requirements. Immediately after the publication of the list, the credentialing entity shall notify the department that the list is publicly available.

(2) The list of certified recovery residences that is published pursuant to this subsection shall not include the names or contact information of any individual residents of a recovery residence, but shall, instead, provide contact information only for the residence, itself, or for the owner of the residence, as deemed appropriate by the credentialing entity. At no point shall the credentialing entity disclose any personally identifying information about the residents of a recovery residence.

(3) The credentialing entity shall regularly update the list of certified recovery residences that is published pursuant to this subsection, in order to ensure that the list reflects the most up-to-date certification information, and omits reference to recovery residences that have lost their certification.

d. A recovery residence shall not be eligible to obtain a certificate of compliance under this section, unless it is managed by a certified recovery residence administrator, or is a peer-managed facility. A recovery residence that is professionally managed by an

uncertified recovery residence administrator shall remain ineligible to obtain a certificate of compliance until such time as the recovery residence administrator obtains professional certification pursuant to this act. For the purposes of expediency, the credentialing entity may consider an application for the professional certification of a recovery residence administrator at the same time as it is considering an application for certification of the recovery residence.

e. A certificate of compliance issued to a recovery residence, and a professional certification issued to a recovery residence administrator, shall each be valid for one year from the date of issuance.

f. (1) The credentialing entity may suspend, revoke, or refuse to renew the certificate of compliance issued to a certified recovery residence, if the credentialing entity finds that the certified recovery residence is not in compliance with the requirements established by the credentialing entity under paragraph (1) of subsection b. of this section, or, if the credentialing entity determines that the certified recovery residence is no longer in compliance with the requirements of subsection d. of this section.

(2) The credentialing entity may suspend, revoke, or refuse to renew the professional certification issued to a certified recovery residence administrator, if the credentialing entity finds that the certified recovery residence administrator is not in compliance with the requirements established by the credentialing entity under paragraph (2) of subsection b. of this section.

3. a. The department shall update its Internet website to reflect the department's approval of a credentialing entity pursuant to this act. The department's website shall identify the name and contact information of the credentialing entity, and shall include a hyperlink to the credentialing entity's Internet website, established in accordance with paragraph (9) of subsection b. of section 2 of this act.

b. Within 10 days after the department receives notice from the credentialing entity, pursuant to subsection c. of section 2 of this act, indicating that a list of certified recovery residences is available on the credentialing entity's website, the department shall take appropriate action to notify all health care practitioners and substance use disorder treatment providers in the State about the availability of the list, and the provisions of subsection c. of this section.

c. (1) After receiving notice, pursuant to subsection b. of this section, regarding the credentialing entity's publication of a list of certified recovery residences, a health care practitioner or substance use disorder treatment provider in this State shall be prohibited from referring a current or discharged patient to a recovery residence, unless: (a) the recovery residence is included in the list

of certified recovery residences that appears on the credentialing entity's website; or (b) the recovery residence is owned or operated by a licensed or certified substance use disorder treatment provider, or by a wholly owned subsidiary thereof, regardless of whether the recovery residence is listed as a certified recovery residence on the credentialing entity's website.

(2) Nothing in this subsection shall be deemed to require a health care practitioner or substance use disorder treatment provider to refer any patient to a recovery residence.

4. a. A person shall not advertise, represent, or imply to the public that a recovery residence is a certified recovery residence, unless the recovery residence has obtained a certificate of compliance pursuant to this act.

b. A recovery residence administrator shall not advertise, represent, or imply to the public that the administrator is a certified recovery residence administrator, unless the administrator has obtained professional certification pursuant to this act.

c. A person who violates the provisions of this section shall be subject to a civil penalty of up to $1,000 for each offense. In determining the amount of the civil penalty to be imposed pursuant to this subsection, the department shall consider the nature, number, and seriousness of the violations, as well as the ability of the violator to pay the penalty, and any other factors determined to be relevant.

d. A civil penalty imposed pursuant to this section may be collected, with costs, in a summary proceeding initiated by the department pursuant to the "Penalty Enforcement Act of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the "Penalty Enforcement Act of 1999" in connection with this act.

5. a. A recovery residence, whether or not it holds a certificate of compliance issued pursuant to this act, shall not be considered to be a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.), and shall be exempt from the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.) and the rules and regulations adopted pursuant thereto.

b. A recovery residence, whether or not it holds a certificate of compliance issued pursuant to this act, shall not be considered to be a substance use disorder treatment facility, and shall be exempt from the provisions of P.L.1970, c.334 (C.26:2G-21 et seq.), P.L.1975, c.305 (C.26:2B-7 et seq.), and the rules and regulations adopted pursuant thereto.

c. A recovery residence that holds a valid certificate of compliance, issued pursuant to this act, shall not be considered to be a rooming or boarding house, and shall be exempt from the provisions of the "Rooming and Boarding House Act of 1979,"

P.L.1979, c.496 (C.55:13B-1 et seq.) and any rules and regulations adopted pursuant thereto. In addition, a certified recovery residence shall be exempt from any rules and regulations governing the operation or certification of recovery residences or sober living homes, which rules and regulations were adopted by the Department of Community Affairs, the Department of Health, or the Department of Human Services prior to the effective date of this act. This act shall supersede all other pre-existing rules and regulations on this issue.

6. This act shall take effect immediately.

STATEMENT

This bill would require the Department of Health (DOH), within 120 days after the bill's enactment, to approve a credentialing entity to develop and administer a voluntary certification program for recovery residences and recovery residence administrators in the State. "Recovery residence" is defined by the bill to mean housing with a home-like atmosphere, which is available in a professionally-managed facility (i.e., a facility that is directly managed by a recovery residence administrator) or in a peer-managed facility (i.e., a facility that is cooperatively self-managed by residents in recovery who are renting rooms at the facility), and which provides a sober living environment and alcohol and drug free living accommodations to individuals with substance use disorders, or to individuals with co-occurring mental health and substance use disorders, but which does not provide clinical treatment services for mental health or substance use disorders. The term would include, but not be limited to, facilities that are commonly referred to as sober living homes. "Recovery residence administrator" is defined as the owner or operator of a recovery residence who is responsible for the overall management of the recovery residence, including, but not limited to, the supervision of residents and staff; and who does not reside in the recovery residence.

The bill would require the DOH to use a portion of the moneys annually appropriated thereto to provide appropriate funds to the credentialing entity, on an annual basis, to enable the credentialing entity to fulfill its duties and responsibilities under the bill's provisions.

In developing the recovery residence certification program (which is to become operational within 180 days after the credentialing entity is approved by the department), the credentialing entity will be required to: (1) establish requirements for the voluntary certification of recovery residences and recovery residence administrators, and requirements for the annual recertification of certified recovery residences and certified

recovery residence administrators; (2) establish criminal background check requirements for the administrators and employees of professionally-managed facilities (i.e., those facilities that are managed by a professional administrator, and are not peer-managed), as deemed by the credentialing entity to be necessary; (3) administer all aspects of the certification program, and establish procedures to facilitate the application, certification, and annual recertification processes; (4) engage in the on-site pre-certification inspection of recovery residences applying for certification; (5) establish procedures and protocols for the regular monitoring and inspection of certified recovery residences, which procedures and protocols must, at a minimum, require at least one unannounced on-site inspection of each certified recovery residence, as a condition of annual recertification; and (6) establish an Internet website to provide information to the public about the recovery residence certification program. The requirements adopted under the recovery residence certification program are to be consistent with applicable standards adopted by the National Alliance for Recovery Residences (NARR).

The credentialing entity would be required to issue a certificate of compliance to any recovery residence, upon application therefor, provided that the residence satisfactorily passes a pre-certification inspection, complies with all other certification requirements established by the credentialing entity, and is either professionally managed by a certified recovery residence administrator, or is a peer-managed facility. "Peer-managed facility" is defined as any facility that is not directly managed by a recovery residence administrator, but which is self-managed, on a cooperative basis, by the residents in recovery who are renting rooms at the facility. A recovery residence that is professionally managed by an uncertified administrator will not be eligible to obtain a certificate of compliance, until such time as the recovery residence administrator obtains professional certification, as provided by the bill. The bill would specify that, for the purposes of expediency, the credentialing entity may consider an application for the professional certification of an administrator at the same time as it is considering an application for certification of the recovery residence.

Under the bill's provisions, a person would be prohibited from advertising a recovery residence, or holding the residence out to the public, as a "certified recovery residence," unless the recovery residence has obtained a certificate of compliance from the credentialing entity. Similarly, a recovery residence administrator would be prohibited from advertising or holding himself or herself out to the public as a "certified recovery residence administrator," unless the administrator has obtained a professional certification from the credentialing entity. Any person who violates these provisions would be subject to a civil penalty of up to $1,000 for each offense.

A certificate of compliance issued to a recovery residence, and a professional certification issued to a recovery residence administrator, would each be valid for a period of one year from the date of issuance. The credentialing entity would be authorized to suspend, revoke, or refuse to renew a certificate of compliance issued to a recovery residence, if it finds that the residence has violated any certification requirements; or that the residence, if professionally managed, is no longer being managed by a certified administrator. The credentialing entity would be authorized to suspend, revoke, or refuse to renew the professional certification issued to an administrator, if it finds that the administrator is not in compliance with the requirements necessary to maintain such certification.

Within 180 days after the recovery residence certification program becomes operational, the credentialing entity will be required to publish, on its website, a list that provides contact information for all recovery residences that have obtained a certificate of compliance pursuant to the bill's provisions. The credentialing entity is to notify the DOH, immediately upon publication, that the list is publicly available. The bill would specify that the published list of certified recovery residences may not include the names or contact information of any individual residents of a recovery residence, but, instead, is to include contact information only for the residence, itself, or for the owner of the residence, as deemed appropriate by the credentialing entity. At no point would the credentialing entity be authorized to disclose any personally identifying information about the residents of a recovery residence. The credentialing entity would be required to regularly update the list of certified recovery residences that is published on its website, in order to ensure that the list reflects the most up-to-date certification information, and omits reference to recovery residences that have lost their certification.

The DOH will similarly be required to update its website to reflect its approval of the credentialing entity, and to provide the public with the name and contact information of the credentialing entity, as well as a link to the entity's website. Upon the department's receipt of notice that the credentialing entity has published a list of certified recovery residences, the DOH would be required to notify all health care practitioners and substance use disorder treatment providers in the State about the availability of the list, and about the bill's requirements regarding professional referrals to recovery residences. In particular, with respect to such referrals, the bill provides that, following the receipt of notice regarding the list's availability, a health care practitioner or substance use disorder treatment provider will be prohibited from referring a patient to a recovery residence, unless the recovery residence is listed as a certified recovery residence on the credentialing entity's website; or the recovery residence – whether

certified or not – is owned or operated by a licensed or certified substance use disorder treatment provider, or by a wholly owned subsidiary thereof. However, the bill would specify that nothing in its provisions may be deemed to require a health care practitioner or substance use disorder treatment provider to refer any patient to a recovery residence.

The bill would specify that a recovery residence, whether certified or not, may not be considered to be either a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.), or a substance use disorder treatment facility within the meaning of P.L.1970, c.334 (C.26:2G-21 et seq.), and P.L.1975, c.305 (C.26:2B-7 et seq.). The bill would further specify that any recovery residence that holds a valid certificate of compliance, issued under the bill's provisions, may not be considered to be a rooming or boarding house, and is to be exempted from the provisions of the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.) and any rules or regulations adopted pursuant thereto. (Uncertified recovery residences would, however, still remain subject to applicable rooming and boarding house requirements.) In addition, a certified recovery residence will be exempt from any rules and regulations governing the operation or certification of recovery residences or sober living homes, which rules and regulations were adopted by the Department of Community Affairs, the Department of Health, or the Department of Human Services prior to the bill's effective date. This bill will effectively supersede all other pre-existing rules and regulations on this issue.