

SENATE, No. 493

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 2 (Atlantic)

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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.



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

3

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

6

7 1. As used in this act:

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

13 “Certified recovery residence” means a recovery residence that
14 holds a valid certificate of compliance issued pursuant to this act.

15 “Certified recovery residence administrator” means a recovery
16 residence administrator who holds a valid professional certification
17 issued pursuant to this act.

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

23 “Department” means the Department of Health.

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

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

34 “Professionally-managed facility” means a recovery residence
35 that is directly managed by a recovery residence administrator, and
36 is not a peer-managed facility.

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

47 “Recovery residence administrator” means the owner or operator
48 of a recovery residence, who is responsible for the overall

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

6 “Recovery residence certification program” means the program
7 established by the credentialing entity, pursuant to section 2 of this
8 act, which provides for the voluntary certification of recovery
9 residences, and the professional certification of recovery residence
10 administrators.

11 “Refer” means to inform a current or discharged patient, by any
12 means or method, about the name, address, or other details of a
13 recovery residence.

14 “Substance use disorder” means a maladaptive pattern of alcohol
15 or drug use that leads to clinically significant impairment or
16 distress. “Substance use disorder” includes drug or alcohol abuse
17 or drug or alcohol dependency, as confirmed by a clinical screening
18 and assessment instrument.

19

20 2. a. (1) Within 120 days after the enactment of this act, the
21 department shall approve a credentialing entity to develop and
22 administer a recovery residence certification program in the State.
23 The recovery residence certification program shall be developed in
24 accordance with the provisions of this section; shall be consistent
25 with applicable standards adopted by the National Alliance for
26 Recovery Residences (NARR); and shall become operational within
27 180 days after the credentialing entity is approved by the
28 department pursuant to this subsection.

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

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

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

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

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

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

- 1 (5) engage in the on-site pre-certification inspection of recovery
2 residences that apply for a certificate of compliance;
- 3 (6) issue a certificate of compliance to any recovery residence,
4 upon application therefor; provided that the recovery residence is in
5 compliance with the provisions of subsection d. of this section; has
6 satisfactorily passed an on-site pre-certification inspection
7 conducted pursuant to paragraph (5) of this subsection; and satisfies
8 all additional requirements, established by the credentialing entity
9 under paragraph (1) of this subsection, which are necessary for
10 certification;
- 11 (7) issue a professional certification to any recovery residence
12 administrator, upon application therefor; provided that the
13 administrator satisfies all requirements, established by the
14 credentialing entity under paragraph (2) of this subsection, which
15 are necessary for professional certification;
- 16 (8) establish procedures and protocols for the regular monitoring
17 and inspection of certified recovery residences, which procedures
18 and protocols shall, at a minimum, require the credentialing entity
19 to conduct at least one unannounced on-site inspection of each
20 certified recovery residence, as a condition of annual recertification;
21 and
- 22 (9) establish an Internet website to provide information to the
23 public about the recovery residence certification program.
- 24 c. (1) Within 180 days after the recovery residence certification
25 program becomes operational, the credentialing entity shall publish,
26 on the website established pursuant to paragraph (9) of subsection
27 b. of this section, a list that provides contact information for all of
28 the recovery residences that have been issued a certificate of
29 compliance in accordance with program requirements. Immediately
30 after the publication of the list, the credentialing entity shall notify
31 the department that the list is publicly available.
- 32 (2) The list of certified recovery residences that is published
33 pursuant to this subsection shall not include the names or contact
34 information of any individual residents of a recovery residence, but
35 shall, instead, provide contact information only for the residence,
36 itself, or for the owner of the residence, as deemed appropriate by
37 the credentialing entity. At no point shall the credentialing entity
38 disclose any personally identifying information about the residents
39 of a recovery residence.
- 40 (3) The credentialing entity shall regularly update the list of
41 certified recovery residences that is published pursuant to this
42 subsection, in order to ensure that the list reflects the most up-to-
43 date certification information, and omits reference to recovery
44 residences that have lost their certification.
- 45 d. A recovery residence shall not be eligible to obtain a
46 certificate of compliance under this section, unless it is managed by
47 a certified recovery residence administrator, or is a peer-managed
48 facility. A recovery residence that is professionally managed by an

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

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

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

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

27
28 3. a. The department shall update its Internet website to reflect
29 the department's approval of a credentialing entity pursuant to this
30 act. The department's website shall identify the name and contact
31 information of the credentialing entity, and shall include a hyperlink
32 to the credentialing entity's Internet website, established in
33 accordance with paragraph (9) of subsection b. of section 2 of this
34 act.

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

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

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

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

10
11 4. a. A person shall not advertise, represent, or imply to the
12 public that a recovery residence is a certified recovery residence,
13 unless the recovery residence has obtained a certificate of
14 compliance pursuant to this act.

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

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

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

32
33 5. a. A recovery residence, whether or not it holds a certificate
34 of compliance issued pursuant to this act, shall not be considered to
35 be a health care facility within the meaning of the "Health Care
36 Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.), and
37 shall be exempt from the provisions of P.L.1971, c.136 (C.26:2H-1
38 et seq.) and the rules and regulations adopted pursuant thereto.

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

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

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

10
11 6. This act shall take effect immediately.
12
13

14 STATEMENT

15
16 This bill would require the Department of Health (DOH), within
17 120 days after the bill's enactment, to approve a credentialing entity
18 to develop and administer a voluntary certification program for
19 recovery residences and recovery residence administrators in the
20 State. "Recovery residence" is defined by the bill to mean housing
21 with a home-like atmosphere, which is available in a professionally-
22 managed facility (i.e., a facility that is directly managed by a
23 recovery residence administrator) or in a peer-managed facility (i.e.,
24 a facility that is cooperatively self-managed by residents in
25 recovery who are renting rooms at the facility), and which provides
26 a sober living environment and alcohol and drug free living
27 accommodations to individuals with substance use disorders, or to
28 individuals with co-occurring mental health and substance use
29 disorders, but which does not provide clinical treatment services for
30 mental health or substance use disorders. The term would include,
31 but not be limited to, facilities that are commonly referred to as
32 sober living homes. "Recovery residence administrator" is defined
33 as the owner or operator of a recovery residence who is responsible
34 for the overall management of the recovery residence, including,
35 but not limited to, the supervision of residents and staff; and who
36 does not reside in the recovery residence.

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

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

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

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

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

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

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

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

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

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