SPONSOR: Rep. Longhurst & Rep. Briggs King & Rep. K. Johnson & Sen. Pinkney
Reps. Baumbach, Griffith, Morrison, K. Williams; Sens. Hansen, S. McBride, Poore

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 421

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO LICENSING AND ACCREDITATION OF RECOVERY HOUSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 2203, of Title 16, by making deletions as shown by strike through and insertions as shown by underline and by redesignating accordingly

§ 2203. Definitions.

For purposes of this chapter:

(2) "Certified recovery house" means a recovery house that has been accredited by the Division or certifying entity approved by the Division under this chapter.

(5) "Director" means the Director of the Division of Substance Abuse and Mental Health.

~~(5) "Division" means the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, or Division of Prevention and Behavioral Health Services as indicated by the usage.~~

(6) "Division" means Division of Substance Abuse and Mental Health within the Department of Health and Social Services.

(9) "Operator" means the lawful owner of a certified recovery house, or a person employed and designated by the owner to have primary responsibilities for the daily operation of a certified recovery house and for maintaining standards and conditions in such certified recovery house that creates an environment supportive of substance use disorder recovery.

(16) "Recovery house" means a house for individuals recovering from substance use disorders that provides a safe and supportive substance-free environment, which may include peer support and other recovery support services.

~~(16) "Substance abuse"~~ (19) "Substance use disorder" means the chronic, habitual, regular or recurrent use of alcohol, inhalants or controlled substances as identified in Chapter 47 of this title.

Section 2. Amend Chapter 22, of Title 16, of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§2233. Certification of recovery houses.

(a)(1) The Division, or approved certifying entity, shall establish and provide for the administration of a voluntary training and accreditation program for operators of recovery houses seeking certification. The Division shall advise and educate all eligible recovery houses concerning the certification process.

(2) The certification program established pursuant to this section shall maintain nationally recognized standards consistent with those established by the National Association of Recovery Residences.

(3) In order to receive and maintain certification a recovery house must be in compliance with all federal, State, and local laws and all rules and regulations promulgated by the Director under paragraph (a)(6) of this section. Failure to comply or remain in compliance shall result in loss of certification and removal from the registry of certified recovery houses established in § 2234 of this title.

(4) The owner or operator of the recovery house must provide a deed, trust document, lease, or other document acceptable to the Division which verifies that the person seeking certification is the lawful owner or lessee of the parcel where the recovery house is located.

(5) The owner or operator of the recovery house must provide a certificate from the Receiver of Taxes, where the recovery house is located, documenting that there are no outstanding taxes or liens on the parcel of real estate where the recovery house is located.

(6) The Division, in consultation with the Secretary, shall promulgate rules and regulations to implement this section that shall include all of the following:

a. Setting fees for recovery house licensure and investigation of complaints.

b. Creating policies regarding good neighbor conduct.

c. Creating policies regarding resident safety.

d. Creating policies for investigating complaints about certified recovery houses.

(7) The Director shall every 2 years, at a minimum, evaluate the quality of training being provided to operators seeking certification and the integrity and efficacy of the certification program.

(8) Nothing in this section prohibits a recovery house that has not received certification from operating or advertising as an alcohol and drug free recovery house or from offering residence to persons recovering from substance use disorders.

(b) Without a certification, or active Division contract, a recovery house may not do any of the following:

(1) Receive referrals from a state agency, state court, or any entity that has a contract with the State.

(2) Obtain State or local government funding.

(3) Receive referrals for residents whose treatment is funded by the State or local government.

(4) Advertise, represent, or imply that they are certified by the Division.

(c) A recovery house that violates subsection (b) of this section shall be fined a maximum of $20,000, per violation, dependent upon the recovery home's history of violations and the nature of any violation. Each day that a recovery house is in violation is a separate violation.

§ 2234. Certified recovery house registry.

(a) The Division shall create and maintain a registry that is publicly accessible on the Division's website of all certified recovery houses and recovery houses contracted by the Division. The registry shall be updated monthly by the Division.

(b) The registry shall include the following information about every certified and Division contracted recovery house:

(1) Contact information.

(2) Locality, total number of beds available, sex/gender eligibility.

(3) Residents' length of stay in recovery house.

(4) Medication Assisted Treatment availability.

(5) Destination upon vacating recovery house.

(6) Number of substantiated complaints verified by the certifying entity.

(c) The registry of all certified recovery houses and recovery houses contracted by the Department shall be disseminated to the following:

(1) Director of the Division.

(2) Every State agency that provides substance use disorder treatment.

(3) Every vendor, with a state contract, that provides substance use disorder treatment.

(4) The Commissioner of the Department of Corrections and Director of Probation & Parole.

(5) All courts in the State that sentence or refer defendants who have substance use disorders including all drug courts.

(d) No State agency, court, or vendor with a State contract to provide treatment or services to an individual, or a State agency or officer setting terms and conditions for the release, parole, or discharge of an individual from custody or treatment, shall refer that individual to a recovery house, nor otherwise include in such terms and conditions a referral to a recovery house unless the recovery house is licensed or holds an active Division contract pursuant to this section.

§ 2235. Certified recovery house fund.

All fees collected for certification and enforcement of regulations and standards for certified recovery houses shall be deposited in a Certified Recovery House Fund, established by the State Treasurer, and designated solely for certification training and enforcement of regulations and standards for certified recovery houses. Fees under this section may not exceed the amount necessary to cover the cost of certification, training, and enforcement by the Division. In order for fees to be kept at a minimum, the Division shall seek all possible other funding, including any available federal grants.

Section 3. A recovery house in existence on the effective date of this Act, and in possession of a valid license issued by the Division, is exempt from the provisions of this Act.

Section 4. This Act shall be known and may be cited as the "Matthew D. Klosowski Act"

Section 5. This Act is effective immediately and is to be implemented the earlier of the following:

(1) Six months from the date of the Act's amendment.

(2) Notice by the Director published in the Register of Regulations that the rules and regulations to implement this Act have been promulgated.

SYNOPSIS

This Act codifies standards for recovery houses to become "certified recovery houses" either through the Division of Substance Abuse and Mental Health ("DSAMH") or through a Division approved certifying entity. A non-certified recovery house may continue to operate and provide an alcohol and drug free residence to persons recovering from substance use disorders. However, a non-certified recovery house may not: (1) Receive referrals from a state entity or state court; (2) obtain state or local funding; (3) Receive referrals for individuals whose treatment is state or locally funded; (4) represent or imply that it is "certified". The Division shall maintain a Registry of Certified Recovery Houses. This Act grandfathers existing licensed recovery houses. The Act takes effect upon enactment and will be implemented upon notice, by Division, of promulgation of final rules and regulations, published in the Register of Regulations or 6 months after enactment, whichever occurs first.