



SPONSOR: Rep. Longhurst

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1
TO
HOUSE BILL NO. 421

AMEND House Bill No. 421 by deleting lines 1 through 93 in their entirety and inserting in lieu thereof the following:

“Section 1. Amend Title 16 by inserting a new Chapter 22A as shown by underline as follows:

CHAPTER 22A. RECOVERY HOUSING

§ 2201A. Definitions.

As used in this chapter:

(1) “Applicant” means any individual, organization, or entity applying for certification of a recovery house.

(2) “Certified recovery house” means a recovery house that has completed the application process and been approved for certification by the certifying organization.

(3) “Certifying organization” means an organization under contract with or otherwise designated by the Division to certify recovery houses under this chapter.

(4) “Community residence” means a residential arrangement for unrelated individuals with disabilities living as a single functional family in a single dwelling unit. The term does not include other group living arrangements for unrelated individuals who are not disabled.

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

(6) “Division” means the Division of Substance Abuse and Mental Health.

(7) “Fund” means the Certified Recovery House Fund established under § 2216A of this title.

(8) “Operator” means the owner or lessee of a recovery house.

(9) “Oxford House” means a recovery house chartered by Oxford House, Inc.

(10) “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.

(11) “Resident” means an individual who resides in a recovery house.

(12) “Staff” means an operator’s employees, contractors, or volunteers who provide management, monitoring, assistance, or other services for the use and benefit of a recovery house and its residents.

(13) “Registry” means the list of certified recovery houses maintained by the certifying organization.

(14) “Substance-free” means free from alcohol, illicit drugs, and the illicit use of prescribed drugs.

(15) “Substance use disorder” means a pattern of use of alcohol or other drugs leading to impairment that meets the applicable diagnostic criteria delineated in the most recent edition of the Diagnostic and Statistical Manual of Disorders of the American Psychiatric Association.

§ 2202A. Certifying organizations; standards; regulations; application system; training and technical assistance.

(a) The Division shall authorize and contract with a certifying organization to establish and administer a voluntary certification program for recovery houses and a voluntary training program for operators.

(b) The Division shall do all of the following through regulation, policy, or both:

(1) Adopt nationally recognized standards for the certifying organization.

(2) Adopt nationally recognized standards for the operation of recovery houses.

(3) Establish processes and requirements related to all of the following:

a. Certification and renewal applications.

b. Inspecting recovery houses.

c. Reporting, receiving, investigating, and resolving complaints.

d. Confidentiality.

e. Data collection and reporting including:

1. Demographics.

2. Length of stay in certified recovery house.

3. Destination upon vacating certified recovery house.

4. Any other criteria the Division sees fit.

f. The online registry established under § 2204A of this title.

g. Suspension or revocation of a certification.

h. Appeals.

(4) Establish other processes and requirements necessary to effectively implement this chapter.

(c) The certifying organization shall establish, operate, and maintain an online system that enables operators to submit applications, upload supporting documentation, pay fees, and report data.

(d) The certifying organization shall develop training and technical assistance programs for recovery houses.

§ 2203A. Fees.

(a) The Division may permit the certifying organization to impose a fee on an operator for any of the following purposes:

(1) Issuing or renewing a certification.

(2) Inspecting a recovery house.

(3) Participating in a training program conducted by the certifying organization.

(b) The Division shall set the maximum fee imposed by the certifying organization in regulation. The maximum fee must approximate and reasonably reflect the costs necessary to defray the certifying organization's expenses.

(c) An operator shall pay fees imposed under this section to the certifying organization.

§ 2204A. Online Registry.

(a) The certifying organization shall publish and maintain an online registry of certified recovery houses on the certifying organization's website. The registry must include the following information concerning every certified recovery house:

(1) Contact information.

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

(3) Whether residents have access to medication assisted treatment.

(4) A general information telephone number to provide information about the certified recovery house.

(b) The certifying organization shall update the registry at least monthly.

(c) The certifying organization must limit the access to the addresses of recovery houses to the Division and other persons authorized by the Division with a bona fide need for access.

(d) The registry of all certified recovery houses must be disseminated to the following:

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

(2) Every vendor, with a State contract, that provides substance use disorder treatment.

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

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

§ 2205A. Zoning.

(a) Notwithstanding provisions under Title 9 or Title 22 to the contrary, a zoning ordinance adopted by a county or municipality must construe a recovery house to be a permitted single-family residential use of property and accord a recovery house the rights and responsibilities of a single-family residence.

(b) Except for restrictions, prohibitions, or other provisions applicable to residential uses in similar structures in the same zoning district occupied by a single family, a county or municipality must not subject a recovery house to a restriction, prohibition, or other provision.

§ 2206A. Rental agreements; termination.

(a) A certified recovery house's rental agreement must include the house's termination and relapse policies.

(b) An individual must agree to the terms of a certified recovery house's rental agreement and sign the agreement before residing at a certified recovery house.

(c) Notwithstanding rights or obligations established under Chapters 51, 53, 55, 57, and 59 of Title 25, a certified recovery house may terminate a resident's rental agreement per the house's termination or relapse policy.

(d) Except if a resident refuses, whenever a certified recovery house terminates the resident's rental agreement, the house shall make a reasonable effort to connect the resident with appropriate services.

§ 2207A. Records.

(a) Records related to a resident of a certified recovery house maintained under this chapter are not public records as defined in Chapter 100 of Title 29.

(b) Records related to a certified recovery house or the certifying organization maintained under this chapter are not public records as defined in Chapter 100 of Title 29.

§ 2208A. Limitations on referrals.

(a) Except as otherwise provided under subsection (b) of this section, a State agency, State court, or an entity having a contract with the State must not refer an individual to a recovery house.

(b) A State agency, State court, or an entity having a contract with the State may refer an individual to a recovery house whenever any of the following conditions exist:

(1) The recovery house is certified under this chapter or is an Oxford House.

(2) The agency, court, or entity receives confirmation from the certifying organization that the recovery house has applied for certification.

(3) The agency, court, or entity reasonably believes that an individual's placement in a recovery house will not endanger the individual's health, recovery, or safety and that no certified recovery house presents a reasonable alternative.

(c) Whenever an agency, court, or entity refers an individual under paragraph (b)(2) of this section, the agency, court, or entity shall inform the certifying organization.

§ 2209A. Data collection; environmental scan and needs assessment.

113 (a) The Division may require certified recovery house operators to collect and report data to assess the
114 effectiveness of recovery houses.

115 (b) Subject to subsection (c) of this section, the Division shall conduct an environmental scan and needs
116 assessment study to determine the State's recovery housing needs and the availability and distribution of recovery houses to
117 meet the State's needs.

118 (c) The Division shall conduct an initial study under subsection (b) of this section within 1 year of this chapter's
119 enactment. After the initial study, the Division shall conduct a study at least once every 3 years.

120 § 2210A. Annual report.

121 (a) At least annually, the Division shall analyze data collected under this chapter and issue a report.

122 (b) The Division shall provide a copy of a report issued under subsection (a) of this section to all of the following:

123 (1) The Governor.

124 (2) The Secretary of the Department of Health and Social Services.

125 (3) The Director of the Delaware Housing Authority.

126 (4) The President Pro Tempore of the Senate.

127 (5) The Speaker of the House of Representatives.

128 (6) The Director of the Division of Research of Legislative Council.

129 (7) The Librarian of the Division of Research of Legislative Council.

130 (8) The Delaware Public Archives.

131 § 2211A. Immunity.

132 (a) Except as otherwise provided under subsection (b) of this section, a person who makes a complaint under the
133 chapter in good faith is not liable in a civil or criminal action because of the complaint.

134 (b) Subsection (a) of this section does not apply to a person engaging in a violation of federal, state, or local law,
135 regulation, or policy.

136 § 2212A. Prohibition against retaliation.

137 (a) It is unlawful to knowingly retaliate against a person who makes a complaint under this chapter. Violation of
138 this subsection is a civil violation.

139 (b) A person violating subsection (a) of this section is liable for treble damages, costs, and attorney fees.

140 § 2213A. Misrepresentation of certification.

141 (a) Except if certified under this chapter, it is unlawful for an operator to advertise, imply, or represent that a
142 recovery house is certified. Violation of this subsection is a civil violation punishable by a fine of no more than \$ 20,000.
143 For the purposes of this subsection, each day a violation occurs is a separate violation.

144 (b) Whenever a court determines the amount of a fine assessed under subsection (a) of this section, the court shall
145 consider the operator's history of violations.

146 § 2214A. Access to funding.

147 (a) Except for certified recovery houses, Oxford Houses, or recovery houses authorized by the Division, it is
148 unlawful for a recovery house to accept federal, state, or local funding. Violation of this subsection is a civil violation
149 punishable by a fine of no more than twice the amount of funding accepted in violation of this subsection.

150 (b) Whenever a court determines the amount of a fine assessed under subsection (a) of this section, the court shall
151 consider the operator's history of violations.

152 § 2215A. Disposition of money collected from fines and penalties.

153 (a) Whenever a court assesses a fine or penalty on a defendant for a violation of this chapter, after collecting the
154 fine, the fine must be transmitted to the prothonotary or clerk of court.

155 (b) After receiving money under subsection (a) of this section, the prothonotary or clerk of court shall transmit the
156 money to the State Treasurer.

157 (c) After receiving money under subsection (b) of this section, the State Treasurer shall deposit the money into the
158 Fund.

159 § 2216A. Certified Recovery House Fund.

160 (a) A special fund, known as the "Certified Recovery House Fund," is created to support the implementation of
161 this chapter.

162 (b) The State Treasurer shall deposit all of the following into the fund:

163 (1) Money received under § 2215A of this title.

164 (2) Grants, gifts, and other money intended for the Fund.

165 (3) Money appropriated or transferred to the Fund by the General Assembly.

166 (c) The State Treasurer shall invest the Fund consistent with the investment policies established by the Cash
167 Management Policy Board and credit interest to the Fund monthly consistent with the rate established by the Cash
168 Management Policy Board.

169 (d) Money in the Fund at the end of a State Fiscal Year carries forward and must not revert to the General Fund.

170 § 2217A. Disbursements from the Fund.

171 (a) Except as otherwise provided under subsection (b) of this section, the State Treasurer may not make a
172 disbursement from the Fund.

173 (b) Upon the written request of the Director, the State Treasurer shall make a disbursement from the Fund.

174 (c) The Director of the Office of Management and Budget shall waive the requirements established under Chapter
175 69 of Title 29 for distributions made from the Fund.

176 Section 2. This Act shall be known and may be cited as the “Matthew D. Klosowski Act.”

177 Section 3. An amount equal to \$300,000 of the General Fund is hereby appropriated to the Certified Recovery
178 House Fund for the purpose of providing additional funding for implementing this Act.

179 Section 4. The funds herein appropriated which remain unencumbered on June 30, 2023, revert to the General
180 Fund of the State of Delaware.

181 Section 5. This Act takes effect upon enactment and is implemented eighteen months from the date of
182 enactment.”.

SYNOPSIS

Substance use disorder constitutes a severe threat to the health and welfare of the citizens of Delaware. Recovery houses address the needs of individuals in recovery from substance use disorder by providing a safe and healthy living environment and a community of supportive recovering peers to which residents are accountable. Recovery houses support the recovery of individuals with substance use disorder and help prevent relapse, criminal justice system involvement, and overdose. Ensuring the certification of recovery houses according to nationally recognized evidence-based standards protects residents and communities from the harm caused by poorly managed or fraudulent recovery houses.

This Act institutes a voluntary certification process for recovery houses under standards and procedures that uphold evidence-based best practices and support a safe, healthy, and effective recovery environment. This Act establishes residents' rights in a recovery house and protects residents against unreasonable and unfair practices in setting and collecting fees and other house payments. This Act provides training and technical assistance for recovery house operators and staff. This Act enables the data collection needed to study the effectiveness of Delaware’s recovery houses. Furthermore, this Act establishes penalties for recovery houses engaged in kickbacks, inducements, patient brokering, and other unethical practices. Finally, the Act appropriates \$300,000 from the General Fund to support establishing a certifying organization to implement this Act.