

CHAPTER 85

(HB 248)

AN ACT relating to recovery housing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) *"Cabinet" means the Cabinet for Health and Family Services;*
- (2) *"Certifying organization" means:*
 - (a) *The Kentucky Recovery Housing Network;*
 - (b) *The National Alliance for Recovery Residences;*
 - (c) *Oxford House, Inc.; and*
 - (d) *Any other organization that develops and administers professional certification programs requiring minimum standards for the operation of recovery residences that has been recognized and approved by the Cabinet for Health and Family Services;*
- (3) *"Local government" means a city, county, urban-county government, consolidated local government, charter county government, or unified local government;*
- (4) *"Medication for addiction treatment" means the use of pharmacological agents approved by the United States Food and Drug Administration for the treatment of substance use disorders in combination with counseling and other behavioral health therapies to provide a whole-patient approach to the treatment of substance use disorders;*
- (5) *"Recovery residence" means any premises, place, or building that:*
 - (a) *Holds itself out as a recovery residence, recovery home, sober living residence, alcohol, illicit drug, and other intoxicating substance-free home for unrelated individuals, or any other similarly named or identified residence that promotes substance use disorder recovery through abstinence from intoxicating substances;*
 - (b) *Provides a housing arrangement for a group of unrelated individuals who are recovering from substance use disorders or to a group of parents who are recovering from a substance use disorder and their children, including peer-to-peer supervision models; and*
 - (c) *Is not licensed or otherwise approved by the cabinet or any other agency of state government to provide any medical, clinical, behavioral health, or substance use treatment service for which a license or other approval is required under state law; and*
- (6) *"Recovery support services":*
 - (a) *Means activities that are directed primarily toward recovery from substance use disorders and includes but is not limited to mutual aid self-help meetings, recovery coaching, spiritual coaching, group support, and assistance in achieving and retaining gainful employment; and*
 - (b) *Does not include any medical, clinical, behavioral health, or other substance use treatment service for which a license or other approval is required under state law.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Effective July 1, 2024, no individual or entity shall, except as provided in subsection (2) of this section, establish, operate, or maintain a recovery residence, recovery home, sober living residence, alcohol, illicit drug, and other intoxicating substance-free home for unrelated individuals, or any other similarly named or identified residence that promotes substance use disorder recovery through abstinence from intoxicating substances or represent, promote, advertise, or otherwise claim to operate a recovery residence, recovery home, sober living residence, alcohol, illicit drug, and other intoxicating substance-free home for unrelated individuals, or any other similarly named or*

identified residence that promotes substance use disorder recovery through abstinence from intoxicating substances unless that individual or entity has:

- 1. Been certified by a certifying organization; and*
- 2. Provided proof of certification by a certifying organization to the cabinet in a form and manner prescribed by the cabinet.*

(b) The provisions of this subsection shall not apply to:

- 1. A recovery residence that is recognized as a part of the Recovery Kentucky Program administered by the Kentucky Housing Corporation; or*
- 2. A recovery residence that is:*
 - a. Owned or operated by an entity that is exempt, in part or in whole, pursuant to 42 U.S.C. sec. 3607 or 12187 from compliance with the Americans with Disabilities Act, Pub. L. No. 101-336, or the Fair Housing Act, Pub. L. No. 100-430; and*
 - b. Affiliated with a religious institution that is organized under 26 U.S.C. sec. 501(c) for charitable religious purposes;*

unless the recovery residence accepts Medicare or Medicaid funds.

(2) Notwithstanding subsection (1) of this section:

- (a) A recovery residence operating without certification from a certifying organization on June 30, 2024, shall be permitted to continue to operate until December 31, 2024, if the recovery residence provides the cabinet with proof that it initiated a certification process with a certifying organization prior to July 1, 2024; and*
- (b) A recovery residence that seeks to begin operating after July 1, 2024, may be permitted by the cabinet to operate for a period of not more than six (6) months if the recovery residence provides the cabinet with proof that it has initiated a certification process with a certifying organization.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall:

- (a) Require certified recovery residences to provide proof of certification at least annually;*
- (b) Require certified recovery residences to notify the cabinet of any change in their certification status including but not limited to a suspension or revocation of certification by a certifying organization;*
- (c) Require separate proof of certification for each recovery residence owned or operated by an individual or entity in the Commonwealth;*
- (d) Post on its website the name, telephone number, and location by local jurisdiction of each certified recovery residence and shall update the list at least quarterly;*
- (e) Post on its website the name of each certifying organization approved by the cabinet; and*
- (f) Notify local governments with appropriate jurisdiction of receipt of proof of certification from a recovery residence within thirty (30) days of receipt of proof of certification.*

(2) The cabinet shall not disclose the address of a recovery residence except to local governments, local law enforcement, and emergency personnel.

(3) The cabinet may:

- (a) In lieu of posting the information required by paragraph (d) of subsection (2) of this section to its website, post a link to another website that aggregates information on certified recovery residences or other information providers; and*
- (b) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this section and Section 2 of this Act.*

(4) The cabinet and local governments are hereby granted the authority and legal standing necessary to initiate appropriate legal action to compel a recovery residence that is operating in violation of Section 2 of this Act to cease operating.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) *A recovery residence shall:*
- (a) *Clearly disclose the following by inclusion in any advertising and by posting such a notice in a conspicuous location inside the residence:*
 1. *Notice that the recovery residence is not a treatment facility;*
 2. *A list of services offered by the recovery residence; and*
 3. *If the recovery residence is exempt from certification pursuant to subsection (1)(b) of Section 2 of this Act, notice that the recovery residence is exempt from certification requirements;*
 - (b) *Require residents to abstain from the use of alcohol, illicit drugs, and other intoxicating substances;*
 - (c) *Require residents to participate in recovery support services including through a peer-to-peer supervision model; and*
 - (d) *Allow individuals who are receiving medication for addiction treatment to continue to receive such treatment while residing in the recovery residence as directed by a licensed prescriber.*
- (2) *A recovery residence shall not, except as permitted under paragraph (b) of subsection (3) of this section, directly provide any medical or clinical services including on-site medication administration.*
- (3) (a) *The requirement that residents abstain from the use of intoxicating substances established in subsection (1)(b) of this section shall not apply to any legally prescribed medication when used by a resident as directed by a licensed prescriber.*
- (b) *Subsection (1)(d) of this section shall not apply to any recovery residence owned or operated by an entity that is exempted, in part or in whole, pursuant to 42 U.S.C. sec. 3607 or 12187 from compliance with the Americans with Disabilities Act, Pub. L. No. 101-336, or the Fair Housing Act, Pub. L. No. 100-430.*
- (c) *The prohibition on the provision of medical and clinical services established in subsection (2) of this section shall not apply to:*
1. *The self-administration of prescribed medications by a resident as directed by a licensed prescriber within his or her scope of practice;*
 2. *Verification of abstinence from the use of alcohol, illicit drugs, and other intoxicating substances; or*
 3. *The provision of medical and clinical services, including telehealth services and other in-residence services, to an individual residing in a recovery residence by a licensed medical or behavioral health provider provided that:*
 - a. *The licensed provider is not employed or contracted by the recovery residence;*
 - b. *The recovery residence has not required or otherwise induced a resident to receive services from a specific provider; and*
 - c. *The licensed provider and the recovery residence shall each, as applicable, comply with 18 U.S.C. sec. 220, 42 U.S.C. sec. 1320a-7b(b), and 42 U.S.C. sec. 1395nn and any amendments thereto.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

After June 30, 2024:

- (1) *When referring an individual who is in need of recovery residency services, the following individuals and entities shall only refer individuals to a recovery residence that has provided the cabinet with proof of certification by a certifying organization as required by subsection (1) of Section 2 of this Act or that is recognized as part of the Recovery Kentucky Program administered by the Kentucky Housing Corporation:*
- (a) *State agencies;*
 - (b) *State-contracted vendors;*
 - (c) *Political subdivisions of the state;*

- (d) *Health care providers who are licensed in the Commonwealth; and*
 - (e) *Behavioral health providers who are licensed in the Commonwealth.*
- (2) *When making orders or recommendations that an individual under its supervision receive recovery residency services, any court of the Commonwealth shall give first consideration to recovery residences that have provided the cabinet with proof of certification by a certifying organization as required by subsection (1) of Section 2 of this Act or that are recognized as part of the Recovery Kentucky Program administered by the Kentucky Housing Corporation.*
- (3) *Only recovery residences that have provided the cabinet with proof of certification by a certifying agency as required by subsection (1) of Section 2 of this Act or that are recognized as part of the Recovery Kentucky Program administered by the Kentucky Housing Corporation shall be eligible to receive state funding and, to the extent permitted under federal law, federal funding for the delivery of recovery residency services in the Commonwealth.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 6 of this Act shall be interpreted or construed to alter, amend, or otherwise infringe upon a local government's authority to regulate the use of property through properly enacted land use laws pursuant to KRS Chapter 100, rental property regulations, or any other local government authority provided under the law.

➔Section 7. The Department for Medicaid Services shall, no later than January 1, 2024, take all reasonable steps necessary, which may include preparation and submission of a Medicaid state plan amendment or waiver application, to pursue approval from the federal Centers for Medicare and Medicaid Services to provide Medicaid coverage and reimbursement for substance use disorder recovery services provided by a certified recovery residence.

Signed by Governor March 24, 2023.