

CHAPTER 132

(HB 462)

AN ACT relating to recovery residences.

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

➔ Section 1. KRS 222.500 is amended to read as follows:

As used in KRS 222.500 to 222.510:

- (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 *or their recognized affiliates*;
 - (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":
 - (a) Means any premises, place, or building that:
 - 1.~~1.(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; **and**
 - 2.~~1.(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
 - ~~(b)~~~~(c)~~ **Does not include any premises, place, or building that is ~~not~~ licensed or otherwise approved by the cabinet or any other agency of state government to operate as a residential or inpatient substance use treatment facility; ~~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; **and**
- (7) **"Resident-driven length of stay" means the amount of time an individual is allowed to stay at a recovery residence as determined by the individual resident based upon his or her recovery needs and not by a third-party payor.**

➔ Section 2. KRS 222.502 is amended to read as follows:

- (1) (a) Effective July 1, 2024, no individual or entity shall, except as provided in **paragraph (b) of this subsection and** 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, **except as provided in paragraph (c) of this subsection**, 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; **and**
 - (c) **Notwithstanding paragraph (a) of this subsection, a recovery residence that provides on-site clinical services or access to on-site clinical services operating without certification from a certifying organization on June 30, 2024, shall be permitted to continue operating after July 1, 2024, but shall be required to provide proof of certification by a certifying organization to the cabinet no later than December 31, 2024.**

➔Section 3. KRS 222.504 is amended 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 subsection (1)(d) 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, **Sections 1, 2, and 4 of this Act, and KRS 222.508 and 222.510**~~and KRS 222.502~~.
- (4) ***If a recovery residence violates any provision of this section, Section 2 of this Act or any administrative regulation promulgated thereunder, the cabinet and local governments are hereby granted the authority and legal standing necessary to impose civil fines as permitted under subsection (5) of this section and to initiate appropriate legal action to compel a recovery residence that is operating in violation of KRS 222.502 to cease operating.***
- (5)
 - (a) ***Any certified recovery residence or other person operating a recovery residence who knowingly fails to submit any report, data, or other information as may be required by the cabinet through the promulgation of an administrative regulation or by a local government through the enactment of a local ordinance or who submits fraudulent reports, data, or information may be subject to civil fines established by the cabinet through the promulgation of an administrative regulation or by a local government through the enactment of a local ordinance.***
 - (b) ***Any person or entity who knowingly establishes, maintains, or operates an uncertified recovery residence in violation of Section 2 of this Act may be subject to civil fines established by the cabinet through the promulgation of an administrative regulation or by a local government through the enactment of a local ordinance.***
- (6) ***Notwithstanding any law to the contrary, a recovery residence that furnishes proof of current certification from a certifying organization to a local government shall be presumed by the local government to be in compliance with this section, Sections 1, 2, and 4 of this Act, and KRS 222.508 and 222.510.***

➔Section 4. KRS 222.506 is amended 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 KRS 222.502(1)(b), 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 ***on-site*** 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 ***on-site*** 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 ***unless at least one (1) of the following criteria is met:***
 - i. ***The recovery residence does not receive payment from the licensed provider;***
 - ii. ***The recovery residence makes on-site clinical services available from an outside service provider, but each resident may utilize the clinical service provider of his or her choosing; or***
 - iii. ***The recovery residence is operated by or is a direct subsidiary of the licensed provider and the services are provided as part of a continuum of care that can be shown by the recovery residence operator to include step-down facilities with resident-driven length of stay or referral thereof;***
 - b. The recovery residence has not required or otherwise induced a resident to receive services from a specific provider ***unless the recovery residence is operated by or is a direct subsidiary of the of the provider and the services are provided as part of a continuum of care that can be shown by the recovery residence operator to include step-down facilities with resident-driven length of stay or referral thereof;*** 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.

Signed by Governor April 9, 2024.