

CHAPTER 145

HUMAN SERVICES - BEHAVIORAL HEALTH

HOUSE BILL 23-1204

BY REPRESENTATIVE(S) Lindstedt and Weinberg, Bradley, Frizzell, Lieder, Lynch, Marshall, Mauro, McCormick, Valdez, Young;
 also SENATOR(S) Priola, Baisley, Cutter, Exum, Gardner, Ginal, Jaquez Lewis, Lundeen, Marchman, Moreno, Mullica, Pelton B., Smallwood, Van Winkle, Will, Winter F.

AN ACT**CONCERNING THE DISCHARGE OF A CLIENT FROM A RECOVERY RESIDENCE.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add with amended and relocated provisions 27-80-129** as follows:

27-80-129. [Formerly 25-1.5-108.5] Regulation of recovery residences - rules - definitions. (1) ~~(a)~~ As used in this section:

(a) "CERTIFYING BODY" MEANS THE BODY THAT CERTIFIES A RECOVERY RESIDENCE APPROVED BY THE BEHAVIORAL HEALTH ADMINISTRATION IN THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 27-80-122.

(b) (I) "Recovery residence", "sober living facility", or "sober home" means any premises, place, facility, or building that provides housing accommodation for individuals with a primary diagnosis of a substance use disorder that:

~~(f)~~ (A) Is free from alcohol and nonprescribed or illicit drugs;

~~(ff)~~ (B) Promotes independent living and life skill development; and

~~(fff)~~ (C) Provides structured activities and recovery support services that are primarily intended to promote recovery from substance use disorders.

~~(bb)~~ (II) "Recovery residence" does not include:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~(F)~~ (A) A private residence in which an individual related to the owner of the residence by blood, adoption, or marriage is required to abstain from substance use or receive behavioral health services for a substance use disorder as a condition of residing in the residence;

~~(H)~~ (B) The supportive residential community for individuals who are homeless operated under section 24-32-724 at the Fort Lyon property for the purpose of providing substance abuse supportive services, medical care, job training, and skill development for the residents;

~~(HH)~~ (C) A facility approved for residential treatment by the behavioral health administration in the department of human services; or

~~(IV)~~ (D) Permanent supportive housing units incorporated into affordable housing developments.

(2) A recovery residence may admit individuals who are receiving medication-assisted treatment, including agonist treatment, for substance use disorders; except that a recovery residence receiving state money or providing services that are paid for through state programs shall not deny admission to persons who are participating in prescribed medication-assisted treatment, as defined in section 23-21-803, for a substance use disorder.

(3) Effective January 1, 2020, a person shall not operate a facility using the term "recovery residence", "sober living facility", "sober home", or a substantially similar term, and a licensed, registered, or certified health-care provider or a licensed health facility shall not refer an individual in need of recovery support services to a facility, unless the facility:

(a) Is certified by a ~~recovery residence~~ certifying body ~~approved by the behavioral health administration in the department of human services~~ as specified in subsection (4) of this section;

(b) Is chartered by Oxford House or its successor organization;

(c) Has been operating as a recovery residence in Colorado for thirty or more years as of May 23, 2019; or

(d) Is a community-based organization that provides reentry services as described in section 17-33-101 (7).

(4) The behavioral health administration in the department of human services shall, by rule, determine the requirements for a ~~recovery residence~~ certifying body seeking approval for purposes of subsection (3)(a) of this section, which rules must include a requirement that a ~~recovery residence~~ certifying body include a representative from the behavioral health administration on its board.

(5) A recovery residence owner, employee, or administrator, or an individual related to a recovery residence owner, employee, or administrator, shall not directly or indirectly:

(a) Solicit, accept, or receive a commission, payment, trade, fee, or anything of monetary or material value, excluding the supportive services required to place the resident:

(I) For admission of a resident, except for state or federal contracts that specifically reimburse for resident fees;

(II) From a treatment facility that is licensed or certified by the department of public health and environment for the treatment of substance use disorders; or

(III) From a facility approved for residential treatment by the behavioral health administration in the department of human services;

(b) Solicit, accept, or receive a commission, payment, trade, fee, or anything of monetary or material value from a toxicology laboratory that provides confirmation testing or point-of-care testing for residents.

(6) A RECOVERY RESIDENCE SHALL HAVE THE FOLLOWING IN PLACE FOR EACH CLIENT AT THE TIME AN INDIVIDUAL BECOMES A CLIENT OF THE RECOVERY RESIDENCE:

(a) A SIGNED PROGRAM AGREEMENT BETWEEN THE RECOVERY RESIDENCE AND THE CLIENT THAT OUTLINES THE REQUIREMENTS THE CLIENT MUST FOLLOW TO RESIDE AT THE RECOVERY RESIDENCE, THE DRUG SCREENING POLICY, AND THE RECOVERY RESIDENCE'S CODE OF CONDUCT WHICH PROHIBITS THE USE OF ALCOHOL, NONPRESCRIBED DRUGS, AND ILLICIT DRUGS, AND NOTICE OF IMMEDIATE DISCHARGE FOR POSSESSION OF ALCOHOL, NONPRESCRIPTION DRUGS, OR ILLICIT DRUGS IN THE RECOVERY RESIDENCE; AND

(b) A RELAPSE PLAN THAT MUST BE IMPLEMENTED IF THE CLIENT RETURNS TO THE USE OF ALCOHOL, NONPRESCRIBED DRUGS, OR ILLICIT DRUGS. THE RELAPSE PLAN MUST OUTLINE STEPS THAT MUST BE TAKEN TO EVALUATE AND ADDRESS THE CLIENT'S RETURN TO USE AND TO ALLOW THE CLIENT TO REMAIN IN THE RECOVERY RESIDENCE AFTER A RELAPSE HAS OCCURRED, IF POSSIBLE. THE RECOVERY RESIDENCE MUST PROVIDE NOTIFICATION TO THE CLIENT IF THE CLIENT'S RELAPSE PLAN HAS FAILED.

(7) (a) RECOVERY RESIDENCE STAFF SHALL DEVELOP A CLIENT DISCHARGE AND TRANSFER POLICY AND SUBMIT IT FOR APPROVAL TO ITS CERTIFYING BODY. RECOVERY RESIDENCE STAFF SHALL IMPLEMENT A CLIENT DISCHARGE AND TRANSFER POLICY THAT IS APPROVED BY THE CERTIFYING BODY. AFTER THE CERTIFYING BODY APPROVES THE RECOVERY RESIDENCE'S CLIENT DISCHARGE AND TRANSFER POLICY, THE RECOVERY RESIDENCE STAFF MAY DISCHARGE OR TRANSFER A CLIENT WITH TWENTY-FOUR HOURS¹ NOTICE, IF THE RELAPSE PLAN HAS FAILED, ACCORDING TO THE POLICY, IN ANY OF THE FOLLOWING CIRCUMSTANCES:

(I) THE DISCHARGE OR TRANSFER IS NECESSARY FOR THE SAFETY OF THE CLIENT BECAUSE THE RECOVERY RESIDENCE IS UNABLE TO MEET THE NEEDS OF THE CLIENT; OR

(II) IF THE CLIENT RETURNS TO THE USE OF ALCOHOL, NONPRESCRIPTION DRUGS, OR ILLICIT DRUGS.

(b) RECOVERY RESIDENCE STAFF MAY IMMEDIATELY DISCHARGE OR TRANSFER A CLIENT, ACCORDING TO THE POLICY, IF THE CLIENT IS IN POSSESSION OF ALCOHOL, NONPRESCRIPTION DRUGS, OR ILLICIT DRUGS IN THE RECOVERY RESIDENCE.

(c) IF A CLIENT IS UNABLE OR NO LONGER WISHES TO RESIDE IN A RECOVERY RESIDENCE, OR IS DISCHARGED OR TRANSFERRED FROM A RECOVERY RESIDENCE, PRIOR TO THE CLIENT VACATING THE RECOVERY RESIDENCE, THE RECOVERY RESIDENCE STAFF SHALL:

(I) DOCUMENT IN THE CLIENT'S RECORD DETAILED INFORMATION REGARDING THE BASIS FOR THE DISCHARGE OR TRANSFER;

(II) PROVIDE THE CLIENT WITH A REFERRAL TO TREATMENT SERVICES OR OTHER RECOVERY SUPPORT SERVICES;

(III) PROVIDE THE CLIENT WITH A REFERRAL TO APPROPRIATE SERVICES IF THE CLIENT IS DISCHARGED WITHOUT FOOD, HOUSING, OR ECONOMIC SECURITY, IF SUCH SERVICES EXIST IN THE COMMUNITY; AND

(IV) PROVIDE THE CLIENT WITH THE PHONE NUMBER TO CONTACT THE COLORADO CRISIS SERVICES HOTLINE, INFORMATION ON THE AVAILABILITY OF PEER SUPPORT SERVICES, AND INFORMATION ABOUT THE BEHAVIORAL HEALTH SERVICES DIRECTORY PROVIDED BY THE BEHAVIORAL HEALTH ADMINISTRATION.

(d) RECOVERY RESIDENCE STAFF SHALL DOCUMENT IN THE CLIENT'S RECORD ANY REFERRALS PROVIDED TO THE CLIENT PURSUANT TO SUBSECTION (7)(c) OF THIS SECTION. IF THE CLIENT REFUSES TO ACCEPT THE DISCHARGE OR TRANSFER, THE RECOVERY RESIDENCE STAFF SHALL DOCUMENT THE REFUSAL IN THE CLIENT'S RECORD.

(e) THE RECOVERY RESIDENCE SHALL, AT A MINIMUM, ATTEMPT TO FOLLOW UP WITH THE CLIENT'S DESIGNATED EMERGENCY CONTACT, AT THE TIME OF DISCHARGE. THE RECOVERY RESIDENCE IS ENCOURAGED TO UTILIZE PEER SUPPORT PROFESSIONALS, AS DEFINED IN SECTION 27-60-108, WHEN PERFORMING FOLLOW-UP CARE WITH CLIENTS. A RECOVERY RESIDENCE MAY FACILITATE FOLLOW-UP CARE THROUGH CONTACTS WITH COMMUNITY-BASED PROVIDERS OR THE COLORADO CRISIS HOTLINE.

(8) THE CERTIFYING BODY SHALL ESTABLISH A FAIR AND ACCESSIBLE GRIEVANCE AND APPEAL PROCESS FOR CLIENTS TO APPEAL A DISCHARGE OR TRANSFER DECISION MADE BY A RECOVERY RESIDENCE. THE GRIEVANCE AND APPEAL PROCESS MUST, AT A MINIMUM:

(a) REQUIRE WRITTEN DOCUMENTATION OF THE GRIEVANCE WITHIN ONE WEEK OF RECEIVING THE GRIEVANCE IF THE GRIEVANCE IS RECEIVED VERBALLY; AND

(b) PROVIDE THE CLIENT WITH A DECISION NOT LATER THAN SEVENTY-TWO HOURS AFTER THE DATE THE CLIENT SUBMITS A GRIEVANCE OR APPEAL.

(9) THE RECOVERY RESIDENCE SHALL PROVIDE A CLIENT WHO IS DISCHARGED OR TRANSFERRED WITH A WRITTEN NOTICE INDICATING THE REASON FOR DISCHARGE, TREATMENT REFERRALS, AND REFERRALS FOR OTHER SERVICES THE CLIENT IS RECEIVING. THE WRITTEN NOTICE MUST OUTLINE THE CLIENT'S RIGHT TO APPEAL THE DISCHARGE OR TRANSFER, THE TIMELINE REQUIRED FOR AN APPEAL, AND HOW TO SUBMIT AN APPEAL.

(10) ANY CERTIFIED RECOVERY RESIDENCE OR CLIENT ADVERSELY AFFECTED OR AGGRIEVED BY A DECISION MADE BY THE CERTIFYING BODY PURSUANT TO THIS SECTION HAS THE RIGHT TO APPEAL TO THE COLORADO DEPARTMENT OF PERSONNEL AND ADMINISTRATION, OFFICE OF ADMINISTRATIVE COURTS AND MAY SUBSEQUENTLY SEEK JUDICIAL REVIEW OF THE CERTIFYING BODY'S ACTION.

(11) A RECOVERY RESIDENCE SHALL MAKE THE RECOVERY RESIDENCE'S CODE OF CONDUCT, DRUG SCREENING POLICY, AND DISCHARGE AND TRANSFER POLICY ACCESSIBLE IN ALL COMMON AREAS OF THE RECOVERY RESIDENCE.

(12) THE RECOVERY RESIDENCE SHALL NOT CONSIDER AGE, GENDER, DISABILITY, RACE, COLOR, ANCESTRY, CITIZENSHIP, PREGNANCY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, NATIONAL ORIGIN, MEDICAL CONDITION, MARITAL STATUS, VETERAN STATUS, PAYMENT SOURCE OR ABILITY, OR ANY OTHER BASIS PROHIBITED BY FEDERAL, STATE, OR LOCAL LAW WHEN DETERMINING WHETHER TO DISCHARGE OR TRANSFER A CLIENT.

SECTION 2. In Colorado Revised Statutes, 27-50-105, **amend** (1)(a) as follows:

27-50-105. Administration of behavioral health programs - state plan - sole mental health authority. (1) The BHA shall administer and provide the following behavioral health programs and services:

(a) The regulation of recovery residences pursuant to ~~section 25-1.5-108.5~~ SECTION 27-80-129;

SECTION 3. In Colorado Revised Statutes, 27-80-107.7, **amend** (1)(d) as follows:

27-80-107.7. Increase synthetic opiate treatment - report. (1) On or before January 1, 2023, each managed service organization designated pursuant to section 27-80-107 shall evaluate the current supply and necessary demand within its region for:

(d) The provision of recovery residences, as defined in ~~section 25-1.5-108.5~~ SECTION 27-80-129.

SECTION 4. In Colorado Revised Statutes, 27-80-122, **amend** (1)(a) as follows:

27-80-122. Recovery residence certifying body - competitive selection process - appropriation. (1) No later than January 1, 2022, the BHA shall use a competitive selection process pursuant to the "Procurement Code", articles 101 to 112 of title 24, to select a recovery residence certifying body to:

(a) Certify recovery residences pursuant to ~~section 25-1.5-108.5~~ SECTION 27-80-129; and

SECTION 5. In Colorado Revised Statutes, 27-80-125, **amend** (3) as follows:

27-80-125. Housing assistance for individuals with a substance use disorder - report - rules - appropriation. (3) In awarding temporary financial housing assistance in accordance with this section, the BHA shall consider funding for individuals entering into a recovery residence, as defined in ~~section 25-1.5-108.5~~ (1)(a) SECTION 27-80-129.

SECTION 6. Repeal of relocated provisions in this act. In Colorado Revised Statutes, **repeal** 25-1.5-108.5.

SECTION 7. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 1, 2023