



March 31st, 2021

Jordan Lewis. PhD, Policy Director
The Pennsylvania Department of Drug and Alcohol Programs
2601 N. 3rd Street, 5th Floor
Harrisburg, PA 17110

Dear Director Lewis,

Thank you for the opportunity to submit comment on the Standards for Drug And Alcohol Recovery House Licensure regulations that have been promulgated by the Department of Drug and Alcohol Programs in final omitted regulation through the Independent Regulatory Review Commission initially submitted on March 1st, 2021.

As the entity who ran the taskforce examining recovery housing, we are deeply concerned about the regulations in current form as they will increase discriminatory practices against persons living in these residencies. The Licensing regulations will place these houses and their residents in peril of local ordinances and zoning regulations which in all likelihood will be used as tools to discriminate against them. Recovery houses are houses and persons residing in them are protected under the American Disabilities Act and the Fair Housing Act. By licensing these recovery residences as nonhospital residential facilities, the Department has created a weapon for discriminatory zoning, local code enforcement and certificates of occupancy standards to regulate them as residential facilities and not houses. We expressly recommended oversight processes focused on housing. These regulations will be powerful tools to use local ordinances and code enforcement to close them. The regulations, which hold themselves out as a voluntary process for houses who want to get funding or referral are de facto compulsory. The regulatory language does not limit the type of government funding that can result in fines. Any type of support a resident obtains from the government, such as public assistance benefits can be used to justify applying fines to the house operator of \$1,000 per day of operation. These fines create a perverse incentive for the Department to recover administrative costs in this way.

Even if a house is successful in navigating local discriminatory policies the myriad of arduous steps for local ordinance, institutional zoning and occupancy permit requirements delineated by the Department, the regulations have a complaint and fine process for NIMBYS to use to force people living in recovery housing out of their neighborhoods. We see these elements of the regulation as additional weapons of discrimination that will be used against an ADA protected class. Operators face fees for investigating complaints and additional government scrutiny which is deeply concerning.

In June of 2017, in our final Taskforce report, we included these points we urged the Department to consider:

1. Persons in recovery from addiction are protected against discrimination as described within the Fair Housing Act of 1968, the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act of 1990. Efforts to regulate housing on the state, county and / or local level should apply evenly to all housing stock and not be limited to houses that have persons in recovery residing in them.
2. Education should be considered for local regulatory entities on the need to develop and enforce standards that apply to all similar housing stock in regard to safety and occupancy considerations evenly across housing stock within their purview and not limit such processes to focus on recovery housing.
3. We hear of the withholding of business licenses; occupancy permits and incorporation documents at the local level as a vehicle to discriminate against recovery houses in local communities. The Department should consider ways to reduce potential discrimination against persons in recovery that occur in this manner.

We again cautioned the Department of our concerns during the public comment period in 2019. Once again, our comments went unheeded. There were no additional stakeholder deliberative processes. Our serious concerns were met with deafening silence. We believed then, as now that through our taskforce, we developed reasonable standards that served to protect residents from discrimination while increasing the safety and quality of housing available to them. We achieved a delicate balance of costs and oversight that the Department substantively disregarded.

Beyond these concerns, the standards developed by the Department create massive and unnecessary financial burdens for house operators, both in initial compliance costs and structurally beyond that point. The Department did not seek stakeholder feedback on these costs nor bother to calculate them, only including estimated audit costs and licensing fees in the regulatory process. They made no attempt to estimate these costs and the regulatory burdens they were placing on these houses, such as adding fire escapes and hard-wired fire alarm systems to meet local and state regulatory requirements as non-hospital residential facilities and not houses. The ultimate impact of these costs will be borne by the vulnerable and marginalized community members who depend on these houses.

While some level of support from the Department may be offered to a subset of operators for initial compliance costs, we believe that the magnitude of these mandates will be prohibitive to those operators who can manage to navigate local ordinance and zoning processes. It is important to emphasize that unless all costs for all operators in all areas of the state are covered, we will create an additional dynamic in which only subsidized houses will be able to meet the arduous requirements to become licensed. Uneven subsidized funding to meet these burdensome regulations will create essentially a caste system of recovery housing. The ultimate consequences is less safe housing for persons in recovery.

If licensed, potentially with state funding through one-time dollars coming from state and federal resources, operators face structural costs that far exceed the ability of persons in these houses to pay. The majority of these costs are unnecessary and more in line with treatment settings, not housing. Even if such costs are subsidized with finite public dollars for some houses for a period of time, persons living in these houses will end up having to move out the houses when such government subsidized support ends. They will hit the street and hope for the best with the odds stacked against them. The vicious cycle of relapse and loss will continue for far too many of them. Many more lives will be lost.

These structural costs of ongoing operation are quite costly and unnecessary in a recovery house. They include staffing costs, training costs, record keeping costs and physical plant operational costs, some of which are even more burdensome than the ones governing treatment centers. They are simply not needed in a recovery residence and place additional unnecessary burdens that will ultimately be shouldered by persons who are in early recovery living in subsistence. Paying for higher quality housing is simply not an option for the vast majority of the persons living in these houses who often put everything they own into a plastic bag and seek minimum wage work while facing court fees and a myriad of other challenges. They simply cannot pay these costs and will be forced to move into unmonitored rogue houses, the very circumstance we tried so very hard to prevent through our taskforce's efforts. Few of us have ever experienced the kind of poverty they live in. These standards make those dynamics worse. We recommend withdrawing them revising the standards as housing and not nonhospital residential facilities.

We are disappointed that the Department did not seek meaningful input on the development of these licensing standards beyond the required written comment. A minimum effort should have included an attempt to calculate the regulatory burdens ultimately placing on the shoulders of the most marginalized members of our communities.

Unless there are very substantive changes to these regulations, they will fuel the use of flop houses and the most vulnerable among being forced to live in substandard housing and being subjected to living in unsafe conditions, being used for financial gain and even subject to human trafficking. The antithesis of a recovery supportive environment. It is profoundly disappointing and contrary to everything we had hoped to achieve.

We are deeply disappointed in these regulations and concerned of their impact on persons in recovery who need safe recovery structured housing. These regulations are a step backwards and fail our community. We recommend withdrawing the final form regulations and reengaging stakeholder groups to address these serious concerns.

Respectfully submitted,



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