

July 12, 2021

To: Director Lewis, DDAP

From: John Robert, R3House LLC

Ref: Statement from the Owners / Operators of R3House LLC on the Proposed DDAP Regulations for Recovery Homes in Pennsylvania

Dear Director Lewis and related DDAP Staff:

Thank you for your efforts to make Recovery Houses in Pennsylvania more safe for those in our state suffering from substance use disorder (SUD). We support the effort to provide quality, safe home environments for our brothers, sisters, sons, daughters, friends and neighbors who have fallen into addiction in Pennsylvania for many various reasons with tragic results.

At R3House, we have invested most of our personal assets to buy and renovate properties to create beautiful homes for people in recovery to live. We did this after we saw the terrible state of recovery homes our loved one lived in and because we believe in the God given value and human potential of every person and because addiction touched our family.

Having been through the document a number of times, our understanding of the regulations is leading us to seriously consider getting out of this business because of the punitive, burdensome requirements and additional costs we must bear.

From our reading, the rules provide no direct benefit to the owner/operators of recovery homes in Pennsylvania who take all the financial and emotional risk to open and operate recovery homes.

For example, we have experienced direct discrimination by townships in PA who have told us in no uncertain terms that they will fight us and deny us the right to open a group home or recovery house in their districts. These regulations and the background statement of need make no mention of the struggle we the owners and operators experience trying to find communities that will accept people in recovery. The regulation makes no attempt to support the legal rights of owner/operators who must wage expensive legal battles to have the right to support quality homes for people in recovery.

We have read with interest the statements that over 500 recovery house operators in PA have indicated their intention to pursue DDAP licensure. The figures, however, are from a 2018 survey **before** there were any regulations in writing for operators to consider and before the global pandemic of 2020/21 that put many operators out of business. We recommend the DDAP conduct a new, updated survey and publish those results so the public, the State Legislature and other stake holders can understand the potential shortage of housing that these regulations may unintentionally cause.

Below we have outlined our views on the details of the issues as much as we can, given limited time and with no opportunity to have a discussion with anyone in the DDAP policy area. We are still working on other feedback items and will provide those to DDAP as soon as possible.

Additionally, we recommend that the PA Legislature ask DDAP to implement a quarterly or semi-annual report on the number of recovery house beds and health of the recovery house community in PA and the on-going effectiveness of these regulations. The report should outline actions being taken by DDAP to encourage and support the industry for the benefit of residents, operators and communities in the state. The report should be verified by an independent audit or recovery community peer review or whatever steps are customary for these types of oversight functions. We also recommend that DDAP set up an Advisory Board consisting of recovery house owners and operators from diverse geographic areas in the State to assist with guiding the process and definition of regulations.

Thank you for taking the time to understand our concerns. We would be happy to discuss our feedback in detail and would welcome the opportunity to collaborate with DDAP to make recovery homes in PA more safe. We would also welcome PA supported improvements to local zoning codes to make it easier for DDAP licensed recovery homes to operate in more communities around the state.

Respectfully submitted,

John Roberts
Co-founder and owner
R3House LLC
john@r3house.com

Detailed Feedback:

1. 717.14 Fines: § 717.14. Fines. 8 (a) The Department will impose fines on the operator of an unlicensed recovery house in accordance with Section 2316-A(a) of the Administrative Code of 1929 (71 P.S. § 613.16(a)). (b) For purposes of a violation under Section 2316-A(a) of the Administrative Code of 1929 (71 P.S. § 613.16(a)), each day of operating a drug and alcohol recovery house that requires a license without a current license shall constitute a separate violation.

Feedback: There is no statement of fine amounts that we can find. Any and all fines should be clearly documented before this legislation is put into law. There should be an easy to use, automated system to support a fact based appeal of fines and an independent body to review/correct fines which have been erroneously levied.

- Is it possible for an operator to choose to become unlicensed rather than pay a fine, if the State truly is not requiring all houses to be licensed?

2. 717.15.c. House Manager Training.

Feedback: Given the requirement, we ask the department to identify what harms they are trying to prevent under each of these topics and provide a level of expected best practices for the training outcomes you are trying to achieve. Alternatively, DDAP could provide documented reference materials or point to training materials that are acceptable and the associated estimated costs.

3. 717.16. Fiscal Management.

Feedback: We are not in agreement with this costly and burdensome regulation requiring audits for recovery houses who receive no State funds in the operations of their businesses. If there are funds being provided by the State or DDAP, then the State or DDAP should be required to publish any funds provided to operators of recovery houses and the amounts and the purpose for which those funds have been distributed. Only Recovery Homes which accept State funds should be under the audit requirement.

Additionally, our recommendation is that the regulation should prohibit the collection of funds from residents for any purpose other than rent, deposits, or intake fees related to housing. Our view is that there should be no *'holding'* or *'managing'* of money for residents in any form under the regulations for recovery houses. At R3, we strongly encourage our residents to get their own bank accounts and have made efforts to help our clients get their financial houses in order through education on credit repair, free tax filing days, etc. We have also put our clients in touch with financial institutions (ex: Citizens Bank) who have programs for people with credit issues (ex: people in recovery) and help them get started on their way to financial independence. In all these areas, we do not collect or hold money from our clients for these services and collect no money other than the fees we collect for rent, deposits or intake costs.

4. 717.26 Complaint Management.

Feedback: This regulation appears to have multiple purposes:

- The first appears to be related to residents complaining to the recovery house management about something in the Recovery House.
 - **We support this part of regulation as a responsibility of recovery house owner/operators.**
- The 2nd appears to be for family members to complain - to whom it is not entirely clear - we assume to the recovery house management.

- **We do not support this part of the regulation as a requirement for recovery house owners but do support DDAP facilitating a State owned system for family member complaints.**
- The 3rd appears to be for people in the local community - to whom it is not entirely clear - we assume to the recovery house management.
 - **We do not support this part of the regulation.**
- The 4th part appears to be for any of the first three groups to complain to DDAP.
 - **We support policies and procedures which facilitate DDAP implementing solutions to allow for stake holders in the State to give feedback to the State on all facets of the drug and alcohol epidemic, including prevention, treatment and law enforcement actions taken to protect communities and people in our state.**

Our view is that we should only be regulatorily accountable via a business complaint management systems, to our contracted clients, who live in and pay rent at our properties. Any other requirement appears to be a costly overhead with no direct benefit to the person in recovery. Other systems should be paid for and maintained by the State or local governments within the bounds of normal zoning, property management, public safety and related codes which are part of any community in the state.

5. 717.27 Notification to family members.

Feedback: This regulation requires the Recovery House to have policies guiding the process and to notify resident family and/or emergency contacts in case of relapse or other situation. It should be amended to state, "*where possible*", that emergency contacts should be contacted. In addition, the DDAP should publish recommended best practices for these circumstances and the regulation should indemnify recovery house owners and operators who contact emergency contacts where the resident may not want those people notified and may claim some sort of HIPPA or other privacy violation.

6. 717.29. Physical Plant Standards.

Feedback: These regulations appear mostly appropriate but the cleanliness, pest control requirements and the potential threat of fines or license revocation based on a dirty kitchen or bathroom or a bug or a mouse in a house is unattainable and in our view, not realistic. For example this requirement for kitchens - *Licensee must: **Ensure that storage areas for foods are free of food particles, dust and dirt.*** We would ask if any of the authors of this regulation are able to demonstrate adherence in their own homes to the same standard. In our homes, Residents themselves are accountable for keeping these areas clean. By making this a Licensee responsibility the DDAP is removing one of the key resident community responsibilities and principles of recovery which we follow. The requirements should be scaled back to reasonable health and safety standards. For example, as a Recovery House owner/operator, we own our homes and care deeply about the quality and cleanliness of our properties. We make cleanliness and chores for basic care of the home environment (ex: trash take out, keeping outside area clean) a **resident responsibility** and see it as a key part of the journey to recovery and self-management for our residents. If there is a problem with cleanliness, we deal with the residents

to get them to clean up the mess they have made. We have regular treatment by pest control at each property. We also have rules about cleaning up in the kitchen and rules about not eating in rooms. However, we cannot manage this 24x7 and some residents create problems with their own lack of cleanliness and which we deal with when it happens. The regulation however, makes it 100% the Recovery House owner's problem to manage. The regulation needs to be modified and is not sustainable as written.

EMBARGOED MATERIAL

July 13, 2021

To: Pennsylvania Department of Drug And Alcohol Programs (DDAP)

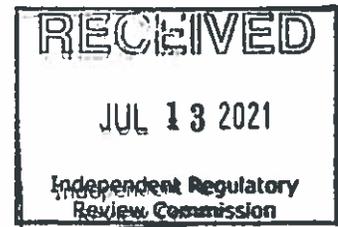
Submission regarding proposed Recovery House Regulations:

Submitted by: We Have A Choice Recovery House for Men

1411 Prospect Street,

Tobyhanna, PA, 18466

570-534-5439



To whom it may concern,

I am writing this letter and response regarding the DDAP proposed Recovery Home Regulations,

as a person in long-term Recovery, as well as a Recovery Homeowner/operator.

In reviewing your proposed Recovery Home regulations, I speak on behalf of the Recovery Home community and operators when I say that they are not supportive to the recovery lifestyle, support, and services provided by Recovery Residence operators and those seeking recovery services. These proposed regulations will force Recovery Homeowners to shut their doors because we will not be able to meet the regulatory criteria that is being burdened upon us.

The concern is this: Clients that need safe and supporting living at Recovery Homes with organizations such as the Pennsylvania Alliance of Recovery Residences (PARR), will no longer have safe housing to reside in because these homes will not be available because owners and operators will not be able to meet the requirements you are requesting.

My personal experience with the barriers that you have created to be licensed by DDAP are as follows:

On or around July 29, 2020, I contacted DDAP representative Fred Burke via email at Fburke@pa.gov requesting an application to enhance my current Certified Recovery Home to a DDAP Transitional Living Facility (TLF). Mr. Fred Burke emailed me a TLF application, and it was all downhill from there. Not at any fault of his own, but because of all the unrealistic expectations and requirements that needed to be met in order to become a DDAP Licensed Transitional Living Facility.

I completed the TLF application in its entirety and submitted it back to Mr. Fred Burke around 8/12/2020. I met all requirements of the application except for the physical plant requirements which disqualified me from being able to get licensed. Please keep in mind that my Recovery Home is zoned by Coolbaugh Township in Monroe County in a residential area as a single-family home. We are also the ONLY Recovery home in the immediate area and essential to the need and demand for safe housing for clients with substance use disorders. However, I was required by DDAP to perform major construction to my single-family residence to meet physical plant requirements if I wanted them to issue me a license. DDAP requirements are not designed for single family homes but geared towards Labor and Industry Commercial standards.

Please see the below email response that I received from Mr. Fred Burke (DDAP) via email on 7/29/2020 regarding my application for Transitional Living Facility and Fire Alarm requirements that needed to be met to meet regulation:

Burke, Fred <fburke@pa.gov>

Wed, Jul 29, 2020,
10:17 AM

to me

A manual fire alarm system is a system that consists of manual pull stations, signaling devices, power source, control panel and other related components, which are designed to provide notification to all building occupants. The manual fire alarm system must be accessible to both staff and patients. This precludes the use of coded touch pads and/or key operated systems accessible only by staff. Please note that the Department of Labor and Industry may require a more extensive manual fire alarm system as stated in Pa. Code Title 34 Labor and Industry.

Exterior exits above the first floor must be permanently affixed to the structure. For example, a fire ladder used as an exit must be permanently affixed to the facility, at both the top and the bottom.

Please Note, I did have this Fire Station Alarm installed as DDAP required!! But I was denied by my township zoning officer to have a fire escape installed because it is a single-family home.

I was also advised that I needed to have 2 fire exits on each floor that need to be 15 feet apart. That is impossible for my Single-family home without having to perform major construction, and that would also change the zoning in my township for my home which would NOT be allowed in the residential area that our home is in which would force us to close our doors to those in need. Even, if possible, it would cost thousands of dollars for major renovation that we do not have. We are a 3-story single family home. like most recovery residences we are HOMES in zoned communities. We are NOT facilities in

commercially zoned areas. Which immediately disqualifies us from some of the requirements.

In other email correspondence between Mr. Fred Burke and myself, I was advised that my windows (Egress) exit on the second and third floors were not big enough and needed to be changed to meet the window standards according to regulation. I changed the 2 windows according to DDAP regulations which cost approximately \$1,000 only to find out afterwards that they needed to be 15 feet from the steps which is not possible in my Single-Family home. I was only informed of this after the work was completed and the windows were replaced!!

Please see email below from (DDAP) Fred Burke on 8/12/2020 and his response to me regarding physical Plant and Fire plant requirements to become a Licensed Transitional Living Facility. He highlighted his emphasis on regulation.

8/12/2020

Burke, Fred <fburke@pa.gov>

Aug 12, 2020,
3:47 PM

to me

§ 705.1. General requirements for residential facilities: The residential facility shall:

(1) Hold a license under Chapter 709 (relating to standards for licensure of freestanding treatment facilities) or a certificate under Chapter 711 (relating to standards for certification of treatment activities which are part of a health care facility).

(2) Have a certificate of occupancy from the Department of Labor and Industry or its local equivalent.

(3) Comply with applicable Federal, State and local laws and ordinances.

§ 705.10. Fire safety.

(a) *Exits.*

(1) The residential facility shall:

(i) Ensure that stairways, hallways and exits from rooms and from the residential facility are unobstructed.

(ii) Maintain a minimum of two exits on every floor, including the basement, that are separated by a minimum distance of 15 feet.

(iii) Maintain each ramp, interior stairway and outside steps exceeding two steps with a well-secured handrail and maintain each porch that has over an 18-inch drop with a well-secured railing.

(iv) Clearly indicate exits by the use of signs.

(v) Light interior exits and stairs at all times.

(2) Portable ladders and rope escapes are not considered exits, but may be used in addition to standard exits.

(b) *Smoke detectors and fire alarms.* The residential facility shall:

(1) Maintain a minimum of one operable, automatic smoke detector on each floor, including the basement and attic.

(2) On floors with resident bedrooms, maintain a smoke detector which shall be located within 15 feet of each bedroom door. On floors with no resident bedrooms, the smoke detection device shall be located in a common area or hallway. All detection devices shall be interconnected.

(3) Repair inoperable smoke detectors or fire alarms within 48 hours of the time the detector or alarm is found to be inoperative.

(4) Maintain a manual fire alarm system that is audible throughout the facility in a residential facility where four or more residents reside.

(5) Maintain automatic smoke detectors and fire alarms of a type approved by the Department of Labor and Industry or by the Underwriters Laboratories.

(6) Maintain all smoke detectors and fire alarms so that each person with a hearing impairment will be alerted in the event of a fire, if one or more residents or staff persons are not able to hear the smoke detector or fire alarm system.

(c) *Fire extinguisher.* The residential facility shall:

(1) Maintain a portable fire extinguisher with a minimum of an ABC rating, which shall be located on each floor. If there is more than 2,000 square feet of floor space on a floor, the residential facility shall maintain an additional fire extinguisher for each 2,000 square feet or fraction thereof.

(2) Maintain at least one portable fire extinguisher with a minimum of an ABC rating in each kitchen.

(i) This fire extinguisher shall meet the requirement of one portable fire extinguisher for a 2,000 square foot area.

(ii) The extinguisher shall be located near an exit and away from the cooking area.

(3) Ensure fire extinguishers are inspected and approved annually by the local fire department or fire extinguisher company. The date of the inspection shall be indicated on the extinguisher or inspection tag. If a fire extinguisher is found to be inoperable, it shall be replaced or repaired within 48 hours of the time it was found to be inoperable.

(4) Instruct all staff in the use of the fire extinguishers upon staff employment. This instruction shall be documented by the facility.

(d) *Fire drills.* The residential facility shall:

(1) Conduct unannounced fire drills at least once a month.

(2) Conduct fire drills during normal staffing conditions.

(3) Ensure that all personnel on all shifts are trained to perform assigned tasks during emergencies.

(4) Maintain a written fire drill record including the date, time, the amount of time it took for evacuation, the exit route used, the number of persons in the facility at the time of the drill, problems encountered and whether the fire alarm or smoke detector was operative.

(5) Conduct a fire drill during sleeping hours at least every 6 months.

(6) Prepare alternate exit routes to be used during fire drills.

(7) Conduct fire drills on different days of the week, at different times of the day and night and on different staffing shifts.

(8) Set off a fire alarm or smoke detector during each fire drill.

(9) Prohibit the use of elevators during a fire drill or a fire.

To have a Fire Escape added to my Single-Family home would cost me upwards of \$12,000 which I do NOT have. I also inquired with my township to ask if adding a Fire escape was legal in my residential zoning area and was informed by the Coolbaugh Township Bureau of Veritas that we could not do it because it's not allowed for my zoning area.

After all of this I became discouraged with pursuing DDAP Licensure due to the unrealistic requirements that are being proposed on a small Recovery Homeowner as myself.

I am writing this letter and response today to ask for your reconsideration of your proposed regulations for Recovery Residences to obtain DDAP Licensure and remove the Severe barriers that you have proposed and implemented. With the hopes that you will revise regulation to be more realistic and appropriate for Recovery Homeowners to fulfill when seeking DDAP Licensure.

Please let me tell you why it is so important for Recovery Houses like ours to stay in the communities they are in. As you should be aware in 2018 PA providers wrote 49.9 % opioid prescriptions for every 100 persons compared to the entire United States rate of 51.4% to every 100 persons. This led to 2,866 opioid related deaths.

Since the onset of the COVID-19 Pandemic the number of opioid related overdoses and deaths have increased significantly. Which means that Certified Recovery Residences like ours are desperately needed now more than ever. We started our home 5 years ago because we are passionate about Recovery and helping people save their lives through support and fostering hope to them in the Recovery process. We are not in this field to make a lot of money and live lavish lifestyles. A lot of Recovery homeowners like myself work fulltime jobs as an addition to operating recovery residences. Sometimes the homes expenses come

out of our own pockets and take food off our tables, but we do it because people's lives depend on it.

Not to mention, we are the ONLY safe Recovery home in the Tobyhanna area. We take men straight from prison, county jail, and off the streets, as well as treatment facilities and crises centers. We have men leave our home and live healthy drug free lives due to the structure we offered them while residing in our Recovery Residence. As previously mentioned in this response, we cannot afford to meet the Licensing requirements that your proposed regulations call for. Where will these men go???? Back to jails, institutions, or death because they didn't have the safe and supportive housing that is so vital to the recovering community???

We would humbly urge you to come out of your offices and visit some of these Recovery Residences such as ours that are PARR certified and see what daily life is like for recovery house owners and what the consequences of not meeting these mandated licensing requirements would be for persons with substance use disorders seeking safe housing and a better way to live.

Sincerely,

Kenneth and Amanda Ramirez-Owners

We Have a Choice Recovery House for Men
PARR Certified
1411 Prospect Street, Tobyhanna, PA, 18466. (P)570-534-5439