

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p>INDEPENDENT REGULATORY</p> <p>RECEIVED</p> <p>MAR 1 2021</p> <p>Independent Regulatory Review Commission</p>						
<p>(1) Agency</p> <p>Pennsylvania Department of Drug and Alcohol Programs</p>								
<p>(2) Agency Number: 74-4</p> <p>Identification Number: =</p>		<p>IRRC Number: 3294</p>						
<p>(3) PA Code Cite:</p> <p>28 Pa. Code Chapters 701, 704, 709, 711 28 Pa. Code §§ 709.131 – 709.153 (new)</p>								
<p>(4) Short Title:</p> <p>Standards for Drug and Alcohol Recovery House Licensure</p>								
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Jordan Lewis, Policy Director, Executive Office 717-736-7466; jorlewis@pa.gov</p> <p>Secondary Contact: Jodi Skiles, Bureau Director, Program Licensure 717-736-7454; joskiles@pa.gov</p>								
<p>(6) Type of Rulemaking (check applicable box):</p> <table border="0"> <tr> <td><input type="checkbox"/> Proposed Regulation</td> <td><input type="checkbox"/> Emergency Certification Regulation;</td> </tr> <tr> <td><input type="checkbox"/> Final Regulation</td> <td><input type="checkbox"/> Certification by the Governor</td> </tr> <tr> <td><input checked="" type="checkbox"/> Final Omitted Regulation</td> <td><input type="checkbox"/> Certification by the Attorney General</td> </tr> </table>			<input type="checkbox"/> Proposed Regulation	<input type="checkbox"/> Emergency Certification Regulation;	<input type="checkbox"/> Final Regulation	<input type="checkbox"/> Certification by the Governor	<input checked="" type="checkbox"/> Final Omitted Regulation	<input type="checkbox"/> Certification by the Attorney General
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<input type="checkbox"/> Final Regulation	<input type="checkbox"/> Certification by the Governor							
<input checked="" type="checkbox"/> Final Omitted Regulation	<input type="checkbox"/> Certification by the Attorney General							
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>This regulation creates standards for drug and alcohol recovery houses that receive funding or referrals from DDAP, or a Federal, State, or county agency to obtain licensure. Broadly, these standards include staff training requirements, physical plant standards, safety and emergency procedures, complaint management, fiscal management, personnel management, resident rights, unusual incident reporting, promoting treatment and recovery, and other provisions.</p>								
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>Section 2311-A of the Administrative Code of 1929 (71 P.S. § 613.13).</p>								
<p>(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.</p> <p>State law mandates this regulation; see Section 2311-A of the Administrative Code of 1929 (71 P.S. §</p>								

613.13). There are no relevant State or Federal court decisions. Under 71 P.S. § 613.12(b), recovery house licensure “shall occur no later than two years after the effective date of this section,” or June 17, 2020. Under 71 P.S. § 613.14(b), a drug and alcohol recovery house in existence on June 17, 2018 may be deemed licensed if it is inspected and provides documentation to DDAP that the house is in compliance with regulations within 180 days after the promulgation of regulations.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Need

Nationally, amid an opioid epidemic, the treatment community has seen a recent influx of unscrupulous individuals who seek to enrich themselves by exploiting those in recovery. While substance use disorder (SUD) treatment facilities and halfway houses are currently licensed by DDAP in Pennsylvania, recovery houses are not. This regulation introduces staff training requirements; standards related to the physical plant, resident safety and ethics; financial auditing; and support for all forms of drug and alcohol treatment, including medication-assisted treatment. Prospective recovery house residents deciding between a licensed and unlicensed house will benefit from these requirements of licensed houses.

Compelling Public Interest

The U.S. Drug Enforcement Administration (DEA) reports that 4,491 Pennsylvanians died of drug-related overdose deaths in 2018 – a rate of 35 deaths per 100,000 population, with 12 Pennsylvanians dying of a drug-related overdose each day (<https://www.dea.gov/press-releases/2019/10/03/dea-announces-release-2018-pennsylvania-drug-related-overdose-death>). While this rate represents an 18% decrease from the previous year, the geographic trends are changing, with higher rates in eastern and central Pennsylvania compared to southwestern Pennsylvania in 2017. The U.S. Centers for Disease Control and Prevention (CDC) report that Pennsylvania was the third highest state for overdose deaths in 2017 (<https://www.cdc.gov/drugoverdose/data/statedeaths.html>). National cost estimates of the opioid epidemic alone, not including other addictive substances, range from millions to billions of dollars.

Without codified recovery housing standards or protections, there are unknown numbers of unregulated, substandard facilities providing low-quality to no supportive services, committing insurance fraud, and exploiting vulnerable populations. Without adequate supports, individuals with substance use disorders are more likely to relapse, increasing their chances of overdose and death.

Beneficiaries

This regulation will benefit individuals recovering from SUD who seek the support of a drug and alcohol recovery house.

The U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) estimated that in 2016-2017, 7.22 percent of Pennsylvania’s adult population met the Diagnostic and Statistical Manual of Mental Disorders criteria for SUD (<https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHsaePercentsExcelCSVs2017/NSDUHsaePercents2017.pdf>). Applying this estimate to U.S. Census Bureau estimates (July 2018) for the population in Pennsylvania suggests that over 700,000 adults suffer from SUD. In a recent report, the U.S. Surgeon General estimated that “[o]nly about 12.2 percent of adults who need treatment for substance use disorder receive any type of specialty treatment” (<https://addiction.surgeongeneral.gov/sites/default/files/surgeon-generals-report.pdf>). It is unknown how many of those individuals who undergo treatment for SUD also seek housing from a drug and alcohol

recovery house. However, safe, stable housing and a supportive peer community have continually been identified as top needs for individuals to sustain their recovery journey (https://www.thenationalcouncil.org/wp-content/uploads/2017/05/Recovery-Housing-Issue-Brief_May-2017.pdf).

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

Federal Standards

The Federal government currently does not regulate drug and alcohol recovery houses.

The Substance Use-Disorder Prevention that Promotes Opioid

Recovery and Treatment (SUPPORT) for Patients and Communities, 42 U.S.C.A. § 290ee-5, directs the U.S. Secretary of Health and Human Services to identify or facilitate the development of best practices. SAMHSA released a guidance document entitled *Recovery Housing: Best Practices and Suggested Guidelines* on October 8, 2019. DDAP reviewed this guidance in drafting the regulations.

Compelling Pennsylvania Interest

The DEA reports that 4,491 Pennsylvanians died of drug-related overdose deaths in 2018, representing a rate of 35 deaths per 100,000 people, and about 12 deaths per day. The CDC reports that Pennsylvania ranked third in the nation for overdose deaths in 2017. While substance use disorder treatment facilities and halfway houses are currently licensed by DDAP in Pennsylvania, recovery houses are not. Without codified recovery housing standards or protections, there are unknown numbers of unregulated, substandard facilities providing low-quality to no supportive services, committing insurance fraud, and exploiting vulnerable populations. This regulation introduces rigorous staff training requirements; standards related to the physical plant, resident safety and ethics; financial auditing; and support for all forms of drug and alcohol treatment, including medication-assisted treatment. Without adequate supports, individuals with SUD are more likely to relapse, increasing their chances of overdose and death.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

State Comparison

According to the National Council for Behavioral Health (National Council) there are "at least 10 states...that have enacted legislation to improve the quality of recovery housing." The National Council has prepared a state-by-state comparative analysis which can be found on pages 21 to 30 of its publication entitled *Building Recovery: State Policy Guide for Supporting Recovery Housing* (https://www.thenationalcouncil.org/wp-content/uploads/2018/05/18_Recovery-Housing-Toolkit_5.3.2018.pdf). In summary, the enabling statute for licensing or certification of recovery houses in Pennsylvania is similar to that of other states in that a house does not require certification to continue operating (CA, CT, FL, HI, IL, IN, MA, ME, MD, NJ, OH, and RI). Fewer states (AZ, IN, MD, and RI), however, are similar to Pennsylvania in requiring certification or licensing for receiving both referrals and funding. Importantly, only Pennsylvania's and Indiana's recovery house legislation require certain quality standards before a house may be certified/licensed and receive public funds. For Pennsylvania, some of these requirements include policies and procedures regarding criminal background checks for operators and employees, appropriate use and security of medication, and prohibition of employees requiring residents to relinquish public assistance benefits (71 P.S. § 613.13).

State Competition

As referenced above, Pennsylvania's recovery house regulations will hold licensed houses to a higher standard than in other states with and without licensure or certification programs. Furthermore, with the introduction of these regulations, it will be more difficult for recovery houses that want government funding or referrals to open in Pennsylvania than in states without regulations. Improvements in quality may offset some of these costs as out-of-state consumers might seek better services in Pennsylvania. In addition, as noncompliant facilities are removed from the treatment landscape, consumers may find themselves more willing to engage in the services of a drug and alcohol recovery house.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation removes all regulatory references to transitional living facilities throughout 28 Pa. Code Part V. There are currently 12 transitional living facilities licensed by DDAP pursuant to 28 Pa. Code Ch. 709, Subch. G. Transitional living facilities will not automatically become recovery houses; however, if they want to receive funds or referrals from government agencies as drug and alcohol recovery houses, they may apply to the new licensure program. Of the 12 current transitional living facilities, two receive funds.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

DDAP's statutory authority allows it to proceed to final omitted regulations. However, the agency still sought public comment through both formal and informal mechanisms.

Summary of Communications and Solicitation

In 2016, prior to the passage of the Act, upon recommendation of the General Assembly, DDAP convened a Certified Drug and Alcohol Recovery Housing Taskforce comprised of key stakeholders. This Taskforce provided DDAP with recommended regulatory language for drug and alcohol recovery houses. DDAP used this language as a starting point for its own regulatory draft.

In May of 2019, DDAP distributed draft regulations and invited a 30-day public comment period. Draft regulations were distributed for comment through:

- a dedicated listserv developed by the agency for the process,
- key stakeholder groups, and
- DDAP's website.

DDAP received a total of 62 letters and e-mails representing 154 unique comments. These comments represented feedback from a broad spectrum of stakeholders, including current recovery house owners, local health and/or human services departments, treatment providers and provider associations, state representatives, Single County Authorities, and others. DDAP made several changes to its draft regulations based on these comments.

After receiving comments, DDAP Executive Staff visited recovery houses in the greater Pittsburgh and Philadelphia areas to discuss concerns raised by potentially regulated entities during the comment period, as well as to see operations first-hand.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Entities Types Affected

Persons, businesses, small businesses, and organizations that operate a drug and alcohol recovery house will be affected by the regulation.

However, these regulations only apply to recovery houses that receive funds or referrals; in other words, not all drug and alcohol recovery houses will be required to comply. Drug and alcohol recovery houses must comply with all regulatory requirements if they:

- 1) receive referrals from Federal, or State agencies or State-funded treatment facilities,
- 2) receive Federal or State funding to provide drug and alcohol recovery housing,
- 3) seek priority in consideration for residential recommendation for persons under the supervision of a court.

Entities not receiving State referrals or Federal or State governmental funding do not have to comply with the regulatory requirements.

Numbers Affected

In 2018, DDAP created an online listserv for recovery houses. To date, approximately 500 individuals have indicated through the listserv their intent to seek licensure.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

As detailed in Section 2313-A of the Administrative Code of 1929, “any recovery house that receives funds or referrals from [DDAP], or a Federal, State, or other county agency” will require a license. Based on feedback from the recovery house listserv, DDAP estimates that approximately 500 recovery houses will seek licensure. The majority of recovery houses in Pennsylvania are small businesses according to the Small Business Administration’s size standards.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Costs

Licensed drug and alcohol recovery houses will bear the regulatory compliance costs outlined in #19. It is likely that the regulated community will pass these costs on to residents. Residents in a licensed drug and alcohol recovery house may pay a higher monthly fee than those in an unlicensed facility.

Benefits

Residents of a licensed facility will have the benefits associated with a higher standard of service. Recovery houses licensed by DDAP must adhere to rigorous staff training requirements; standards related to the physical plant, resident safety and ethics; financial auditing; and support for all forms of drug and alcohol treatment, including medication-assisted treatment. The regulations ensure that residents will be supported by competent, trained personnel in an environment that supports recovery and promotes health and safety.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Without adequate supports, particularly during early recovery, individuals with SUD are more likely to relapse, increasing their chances of overdose and death. In addition to both lives saved and quality of lives improved, DDAP anticipates that health, human service, and criminal justice systems will reap benefits in the form of improved outcomes for individuals with SUD. Improvements to supportive services, like recovery houses, decrease the likelihood that individuals with SUD will need to interact with these systems.

Furthermore, licensed drug and alcohol recovery houses will receive those benefits associated with maintaining the license. This includes the ability to advertise themselves as a licensed provider to the community, distinguishing themselves to customers as a competent service provider. A list of licensed recovery houses will be publicly available on DDAP's website.

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulatory requirements for recovery house licensure include physical plant requirements as well as administrative responsibilities. Costs will vary upon the current status of the residence. Costs per recovery house are dependent on current status of the residence, size of the residence, and number of clients served. These costs include training for staff, personal and medication storage for clients, criminal background checks for staff and volunteers, exterior lights, fire-retardant mattresses, bedding, towels, slip resistant surfaces in bathtubs, kitchen appliances, secured railings, smoke detectors, carbon monoxide detectors, fire extinguishers, and ADA compliance. The estimated cost to the regulated community assumes that most of these costs are already incurred by recovery houses in the absence of licensure. A recovery house that currently matches requirements for licensure without needing additional modification will incur a minimum cost of \$10,250, accounting for the cost of an audit (roughly \$10,000 according to the National Council of Nonprofits) and an annual application or renewal fee (\$250).

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Local Government Costs

DDAP does not anticipate any additional costs to local governments associated with compliance, as the regulations do not impose compliance requirements on local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

State Government Costs

DDAP estimates to incur approximately \$341,411 in annual administrative costs during the first year, and \$323,411 during subsequent years, to implement the regulation. The fee charged to recovery houses is expected to defray these costs by \$125,000 (or \$250 licensure fee multiplied by 500 estimated recovery houses). Remaining costs will be covered by federal grants awarded to DDAP.

Costs include:

- Personnel – \$279,849.97
 - Includes salary and benefits for 2 Drug and Alcohol Licensing Specialists and 1 Drug and Alcohol Licensing Supervisor
- Operating – \$43,562
 - Includes computers/software, telephone/telecommunication charges, chairs, training, and lease space.
- Fixed Assets – \$18,000
 - Includes modular workstations.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Regulated Community

The regulated community must obtain the services of an independent certified public accountant for an annual financial audit of the drug and alcohol recovery house's operations, as mentioned in #19. Recordkeeping of personnel files must include application/resume for employment, a Pennsylvania State Police criminal history record check, any disciplinary actions, and documentation of training. Recordkeeping of resident files must include a consent to residency form, referrals, and intake documentation including criteria for residency, signed orientation paperwork, and basic personal, medical, and emergency contact information. Resident records must be maintained for at least four years following the discharge of a resident. Furthermore, the regulated community must maintain a resident roster that identifies each admission, termination, and completion of residency. Resident records and the resident roster must be stored securely as a hard copies in a locked cabinet or digitally in a protected data system.

Local Governments

For local governments, the regulations do not require any additional legal, accounting, or consulting procedures or require additional reporting, recordkeeping, or other paperwork.

State Government

DDAP will have additional legal, accounting, reporting, recordkeeping and other requirements needed to comply with the Act. Additional requirements include the administration of a licensure program pursuant to 71 P.S. § 613.12, licensure fees pursuant to 71 P.S. § 613.14, and an online registry pursuant to 71 P.S. § 613.15.

(22a) Are forms required for implementation of the regulation?

Yes. Regulated entities will need to complete forms to obtain and maintain licensure.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation. All forms required for implementation of the regulation are attached.**

A copy of the recovery house licensing checklist is attached. This checklist must accompany the application form.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

Statement on Benefit-Cost Schedule

It is difficult to develop a full schedule of benefits and costs because not all recovery houses in Pennsylvania will seek licensure; the current level of compliance with program, staffing, and physical plant requirements varies greatly among recovery houses; and the benefits to auxiliary social service and treatment systems is undetermined.”

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable
Local Government	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable
State Government	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable
Total Savings	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable
COSTS:						
Regulated Community	>\$2.5 million	>\$5.1 million	>\$5.1 million	>\$5.1 million	>\$5.1 million	>\$5.1 million
Local Government						
State Government	\$341,411	\$323,411	\$323,411	\$323,411	\$323,411	\$323,411
Total Costs	>\$2.8 million	>\$5.4 million	>\$5.4 million	>\$5.4 million	>\$5.4 million	>\$5.4 million
REVENUE LOSSES:						
Regulated Community	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable
Local Government	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable
State Government	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable
Total Revenue Losses	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable	Not Calculable

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Drug and Alcohol Recovery House Licensure	New program. Expenditure history does not exist.			

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of

the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.

Regulated entities are almost exclusively small businesses. Please see #16 for information on identification and estimate.

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

Regulated entities are almost exclusively small businesses. Please see #19 and #22 for statements on reporting, recordkeeping, and other administrative costs.

- (c) A statement of probable effect on impacted small businesses.

Regulated entities are almost exclusively small businesses. Please see #17, #19, #22 for probable effects on small businesses.

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Less intrusive or less costly alternative methods either conflict with statutory requirements or present a detriment to life, health, and safety.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

DDAP developed this regulation to ensure that drug and alcohol recovery houses provide individuals with SUD with a safe environment that promotes recovery. All provisions contained in the regulations seek to address this goal.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

In developing the regulations, DDAP sought the least burdensome regulatory approach that was compliant with statutory requirements and consistent with protecting life, health and safety.

DDAP solicited the public, as described in #14, and reviewed suggestions to reduce regulatory burdens. Those suggestions that did not conflict with statutory requirements or the mandate to protect life, health and safety were integrated into the final regulatory proposal.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting

- requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

Regulated entities are almost exclusively small businesses. The regulations were developed to minimize the impact on these entities in a way that does not conflict with statutory requirements or the mandate to protect life, health and safety.

The proposed regulations seek to minimize adverse effect on small businesses. In multiple areas of the regulations, DDAP established performance standards in place of operational standards. For example, instead of prescribing specific policies, DDAP drafted the regulation in a way that allows a drug and alcohol recovery house to develop its own policies that meet the prescribed performance standards. In addition, DDAP allows recovery houses the ability to decide the best strategy for maintaining and securing records instead of prescribing specific recordkeeping systems.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

DDAP does not have additional data to submit.

(29) Include a schedule for review of the regulation including:

- | | |
|---|--|
| A. The length of the public comment period: | <u>30 days</u>
<u>(May 14 -June 13, 2019)</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of delivery of the final-form regulation: | <u>February 2021</u> |
| D. The expected effective date of the final-form regulation: | <u>June 2021</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>December 2021</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>December 2021</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its

implementation.

DDAP will review drug and alcohol recovery house complaints it receives for any unintended regulatory consequences and any trends in misapplication. DDAP will conduct outreach and educational sessions after publication of the final rulemaking the *Pennsylvania Bulletin*. During this outreach, DDAP will solicit comments on the regulation and track common themes and issues.



RECOVERY HOUSE LICENSING CHECKLIST

FACILITY NAME: _____

NOTE: This checklist must accompany the application. The application ***will be rejected*** if the applicant fails to submit ***all information*** (i.e., items on checklist) at the time of application.

CHECKLIST ITEMS:

- Completed Application
- Completed Checklist
- Proof the \$250 Application Fee was paid to the Department of Drug and Alcohol Programs
- A copy of the articles of incorporation, certificate of registration, certificate of incorporation, charter, certificate of organization, or other articles, statements or documents establishing the legal existence of the facility for the license/certificate of approval. This submission shall include applicable Pennsylvania Department of State filings and approvals. For foreign entities, provide a copy of the applicable Pennsylvania Department of State filings and approvals to conduct business in Pennsylvania. This should include legal documents from inception through the present.
- A copy of the by-laws, operating agreement, partnership agreement, or other rules adopted for the regulation or management of the Recovery House for the license/certificate of approval, regardless of the name used to describe those rules.
- Documentation of the business' organizational structure, including a written job description for each Recovery House position
- Ownership and Business Management Form and all required supporting documentation
- Photo identification for individuals who own 5% or more of the corporation
- Certificate of Occupancy
- Proof of zoning approval
- Floor Plans (*see floor plan checklist for all required items on floor plan*)
- Proof of fire-retardant mattresses
- Consent to Residency, including emergency contact information fields, and acknowledgement of resident rights form
- Orientation Handbook, which includes the Recovery House Rules and Fee Schedule
- Recovery House Manager Information form that includes a signed acknowledgement regarding the requirement to notify the Department in writing any time the House Manager changes
- Recovery House Manager Pennsylvania State Police Criminal History Background Check
- Pennsylvania State Police Criminal History Background Check for all staff and volunteers

RECOVERY HOUSE LICENSING CHECKLIST

28 Pa. Code § 709.139. Personnel Management

The licensee shall develop and implement written personnel policies and procedures in compliance with State and federal employment laws. The written policies and procedures must include:

1. Use of Volunteers.
2. Rules of conduct.
3. Supervision of staff.
4. Orientation of new employees.
5. Prohibition on providing or using alcohol or illicit drugs on the premises of the drug and alcohol recovery house, including consequences for a violation of the policy.
6. Relapse of recovering staff and volunteers, including consequences for a violation of the policy.
7. Completion of a Pennsylvania State Police Criminal history record check for the house manager, all staff and volunteers prior to beginning services at the drug and alcohol recovery house.

In what document is this information found? _____

Page number(s): _____

Written job descriptions for recovery house positions.

In what document is this information found? _____

Page number(s): _____

RECOVERY HOUSE LICENSING CHECKLIST

28 Pa. Code § 709.140. Training

The licensee shall develop and implement written staff development policies and procedures that identify the person responsible and the time frames for completion of the following:

1. An assessment of training needs for each staff person and volunteer.
2. A plan for addressing those needs.
3. A mechanism to collect feedback on completed training.

In what document is this information found? _____

Page number(s): _____

28 Pa. Code § 709.141. Residents Rights

The licensee shall develop and implement written policies and procedures on resident rights which must include:

1. Residents shall retain all civil rights that have not been specifically curtailed by separate judicial or administrative determination by the appropriate legal authority.
2. The licensee may not discriminate against an individual or staff on the basis of age, race, sex, religion, ethnic origin, economic status, disability, sexual orientation or gender identity or expression.
3. Residents have the right to inspect their own records.
4. Residents have the right to request the correction of information in their records on the basis that it is inaccurate, irrelevant, outdated or incomplete.
5. Residents have the right to submit a rebuttal to information in their records.
6. Residents may attend a treatment facility of their choice outside of the drug and alcohol recovery house. The licensee may not require a resident to attend specific treatment facility.

In what document is this information found? _____

Page number(s): _____

RECOVERY HOUSE LICENSING CHECKLIST

28 Pa. Code § 709.144. Intake and Admission

The license shall develop and implement written policies and procedures for resident intake and admission which include:

1. Admission criteria.
2. Requirements for completion of residency.
3. Criteria for termination of residency.

In what document is this information found? _____

Page number(s): _____

28 Pa. Code § 709.146. Medication Control and Self-Administration

The licensee shall develop and implement written policies and procedures on the use of prescription and over-the-counter medications by residents, which must include:

1. Self-administration and drug and alcohol recovery house tracking of medication for residents who take medication.
2. Safe storage of medication by the drug and alcohol recovery house and residents and procedures to address loss, theft, abandonment or misuse of medications.
3. Safe disposal of unused, expired or abandoned medication, in accordance with State and Federal regulations.
4. Emergency procedures in the event of an adverse medication reaction or overdose on premises. The licensee shall have and make available overdose reversal medication on the premises of the drug and alcohol recovery house at all times.
5. Prohibition on sharing prescription medication.

In what document is this information found? _____

Page number(s): _____



RECOVERY HOUSE LICENSING CHECKLIST

28 Pa. Code § 709.147. (a) Financial Transactions.

The licensee shall develop and implement written policies and procedures to maintain a complete record or collection of fees, payments and deposits between an employee of the drug and alcohol recovery house and the resident or on behalf of the resident. The record must include:

1. All fee deposits, resident fees and other monetary transactions between the drug and alcohol recovery house and the resident.
2. Documentation that the drug and alcohol recovery house returned all deposits due to the resident when the resident departed the drug and alcohol recovery house, signed and dated by the licensee and resident.

In what document is this information found? _____

Page number(s): _____

28 Pa. Code § 709.147. (b) Financial Transactions

The licensee shall develop and implement written policies and procedures that prohibit the licensee, staff, volunteers or contractors of the drug and alcohol recovery house from:

1. Requiring a resident to sign a document relinquishing the resident's public assistance benefits, including medical assistance benefits, cash assistance, Supplemental Security Income (SSI) and Supplement Nutrition Assistance Program (SNAP) benefits.
2. Requiring a resident to surrender cash or sign over a paycheck.
3. Becoming personally involved with a resident's financial affairs, including the borrowing of lending of money or SNAP benefits; buying or selling of property, or other financial transactions.
4. Directly or indirectly soliciting or accepting a commission, fee or anything of monetary or material value from residents, other related individuals, third-party entities or referral sources, beyond specified rent established in writing at the time of residency.

In what document is this information found? _____

Page number(s): _____



RECOVERY HOUSE LICENSING CHECKLIST

28 Pa. Code § 709.148. Complaint Management.

- The licensee shall develop and implement written policies and procedures for managing complaints from residents, family members and community members, which must include procedures for informing residents, family members and community members of the complaint process, including the ability to file a complaint with the Department.

In what document is this information found? _____

Page number(s): _____

28 Pa. Code § 709.149. Notification to Family Member or Emergency Contact

- The licensee shall develop and implement written policies and procedures for notifying the resident’s emergency contact of the resident’s hospitalization or death.

In what document is this information found? _____

Page number(s): _____

28 Pa. Code § 709.150. Resident Requirements

- The licensee shall develop and implement written policies and procedures that:
 1. Promote and require that residents participate in treatment, self-help groups or other drug and alcohol recovery supports.
 2. Require that residents abstain from use and sale of alcohol and illicit drugs and provide consequences for failure to abstain.

In what document is this information found? _____

Page number(s): _____

RECOVERY HOUSE LICENSING CHECKLIST

28 Pa. Code § 709.152. Safety and Emergency Procedures

The licensee shall develop and implement written policies and procedures for staff and residents to follow in case of an emergency which must include provisions for:

1. The evacuation and transfer of residents and staff to a safe location.
2. Assignments of staff during emergencies.
3. The evacuation and transfer of residents impaired by alcohol or other drugs.
4. Notification to the Department within 48 hours of a fire, other disaster or situation which affects the continuation of operations.

In what document is this information found? _____

Page number(s): _____

28 Pa. Code § 709.153.(a) Unusual Incidents

The licenses shall develop and implement written policies and procedures to respond to the following unusual incidents:

1. Physical assault or sexual assault by staff or a resident.
2. Provision or use of illicit drugs on the premises.
3. Death or serious injury due to trauma, suicide, medication error or unusual circumstances while residing at the drug and alcohol recovery house.
4. Significant disruption due to disaster such as fire, storm, flood or other occurrence which closes the drug and alcohol recovery house for more than 1 day.
5. Theft, burglary, break-in or similar incident at the drug and alcohol recovery house.
6. Event at the drug and alcohol recovery house requiring the presence of police, fire or ambulance personnel.
7. Fire or structural damage to the drug and alcohol recovery house.
8. Outbreak of a contagious disease requiring Centers for Disease Control (CDC) notification.

In what document is this information found? _____

Page number(s): _____



RECOVERY HOUSE LICENSING CHECKLIST

28 Pa. Code § 709.153. (b) Unusual Incidents

The licensee shall develop and implement written unusual incidents policies and procedures which must include the following:

1. Documentation of the unusual incident
2. Prompt review and identification of the direct and indirect causes of the unusual incident.
3. Implementation of a timely and appropriate plan of correction, when indicated.
4. Ongoing monitoring of the plan of correction.

In what document is this information found? _____

Page number(s): _____

Please note it is the responsibility of the applicant to review ALL regulations pertaining to the activities they are applying to provide.

Legal Attestation

I (the applicant) acknowledge that my signature is verification that I have completed this checklist truthfully and accurately, and I understand that my statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

APPLICANT SIGNATURE

DATE



**DRUG AND ALCOHOL RECOVERY HOUSE
LICENSING APPLICATION**

FACILITY NAME: _____

APPLICANT/OWNER NAME: _____

UNIT MANAGER: _____

FACILITY INFORMATION:

STREET ADDRESS: _____

CITY: _____ **COUNTY:** _____ **ZIP CODE:** _____

ANTICIPATED START DATE OF OPERATION: _____

FACILITY TYPE:

Identify the organizational structure of the applicant's governing body

Select one of the following:

- Non-Profit For-Profit Individual (sole proprietorship)
- Partnership (between sole proprietors) Partnership (between corporations)

Public agency:

- State Government County Government

RECOVERY HOUSE CAPACITY:

1. IS THE FACILITY LICENSED BY ANY OTHER AUTHORITY? YES NO

IF YES, LIST LICENSING AUTHORITIES:



**DRUG AND ALCOHOL RECOVERY HOUSE
LICENSING APPLICATION**

**2. INFORMATION REGARDING INDIVIDUAL TO BE CONTACTED DURING
APPLICATION PROCESS:**

NAME: _____

ADDRESS: _____

TELEPHONE #: _____

FAX #: _____

EMAIL ADDRESS (Required for application process correspondence): _____

**Note: Application *must be* accompanied by the applicable
application checklist.**

*I acknowledge that all required documentation is to be submitted at the time of application.
Failure to submit all required documentation will result in the rejection of my application.*

*I further acknowledge that my signature is verification that I have completed this application
truthfully and accurately, and I understand that my statements herein are made subject to the
penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).*

CEO/Board of Director's Signature

Date

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

RECEIVED
MAR 1 2021
Independent Regulatory
Review Commission

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>74-4</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>[Signature]</u> TITLE: SECRETARY OF THE DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>[Signature]</u></p> <p><u>2/19/2021</u> DATE OF APPROVAL</p> <p>Deputy General Counsel (Chief Counsel, Independent Agency) (Strike Inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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NOTICE OF FINAL-OMITTED RULEMAKING WITHOUT PUBLICATION AS PROPOSED

DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS

[28 Pa. Code Chapter 701 (General Provisions)]

[28 Pa. Code Chapter 704 (Staffing Requirements for Drug and Alcohol Treatment Activities)]

[28 Pa. Code Chapter 709 (Standards for Licensure of Freestanding Treatment Facilities)]

[28 Pa. Code Chapter 711 (Standards for Certification of Treatment Activities which are a Part of a Health Care Facility)]

Standards for Drug and Alcohol Recovery House Licensure

In accordance with Section 2313-A of the Administrative Code of 1929 (71 P.S. § 613.13), the Department of Drug and Alcohol Programs (Department) amends Chapter 701 (relating to General Provisions of the Department), Chapter 704 (relating to Staffing Requirements for Drug and Alcohol Treatment Activities), Chapter 709 (relating to Standards for Licensure of Freestanding Treatment Facilities), and Chapter 711 (relating to Standards for Certification of Treatment Activities which are a Part of a Health Care Facility) to read as set forth in Annex A.

Statutory Authority

This final-omitted rulemaking is issued under the authority provided in Section 2313-A of the Administrative Code of 1929 (71 P.S. § 613.13). Section 2313-A states that the Department shall promulgate final-omitted regulations for the licensure or certification of drug and alcohol recovery houses that receive funds or referrals from the Department, or a Federal, State, or other county agency.

Purpose

The purpose of this regulation is to establish requirements for drug and alcohol recovery house licensure by the Department. Nationally, amid an opioid epidemic, the treatment community has seen a recent influx of unscrupulous individuals who seek to enrich themselves by exploiting those in recovery. Without codified recovery housing standards or protections, there are unknown numbers of unregulated, substandard facilities providing low-quality to no supportive services, committing insurance fraud, and exploiting vulnerable populations. Without adequate supports, individuals with substance use disorder (SUD) are at greater risk

of relapse, increasing their chance of overdose and death. This regulation establishes the procedures for issuance of a drug and alcohol recovery house license and provides standards for the licensure of a drug and alcohol recovery house under subarticle B of Article XXIII-A of the Administrative Code of 1929 (71 P.S. §§ 613.11 – 613.18).

This final-omitted rulemaking amends 28 Pa. Code § 701.1 (General Definitions), 28 Pa. Code § 704.3 (General Requirements for Projects), 28 Pa. Code § 704.12 (Full-time equivalent [FTE] Maximum Client/Staff and Client/Counselor Ratios), 28 Pa. Code § 709 (Subchapter G. Standards for Inpatient Nonhospital Activities—Transitional Living Facilities [TLFs]), 28 Pa. Code § 711 (Subchapter F. Standards for Inpatient Nonhospital Activities—Transitional Living Facilities [TLFs]), and add 28 Pa. Code § 709.131 – 709.154 (Subchapter L. Standards for Drug and Alcohol Recovery House Licensure).

Background

Recovery houses are not SUD treatment facilities. Rather, recovery houses provide support to individuals who are receiving outpatient treatment for, or in recovery from, SUD who may benefit from supportive housing, a substance-free environment, and peer camaraderie.

The U.S. Drug Enforcement Administration reports that 4,491 Pennsylvanians died of drug-related overdose deaths in 2018 – a rate of 35 deaths per 100,000 population, with 12 Pennsylvanians dying of a drug-related overdose each day (<https://www.dea.gov/press-releases/2019/10/03/dea-announces-release-2018-pennsylvania-drug-related-overdose-death>). While this rate represents an 18% decrease from the previous year, the geographic trends are changing, with higher rates in eastern and central Pennsylvania compared to southwestern Pennsylvania in 2017. The U.S. Centers for Disease Control and Prevention

(CDC) report that Pennsylvania was the third highest state for overdose deaths in 2017 (<https://www.cdc.gov/drugoverdose/data/statedeaths.html>). The U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) estimated that in 2016-2017, 7.22 percent of Pennsylvania's adult population met the Diagnostic and Statistical Manual of Mental Disorders criteria for SUD (<https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHsaePercentsExcelCSVs2017/NSDUHsaePercents2017.pdf>). Applying this estimate to U.S. Census Bureau estimates (July 2018) for the population in Pennsylvania suggests that over 700,000 adults suffer from SUD. In a recent report, the U.S. Surgeon General estimated that "[o]nly about 12.2 percent of adults who need treatment for substance use disorder receive any type of specialty treatment" (<https://addiction.surgeongeneral.gov/sites/default/files/surgeon-generals-report.pdf>). It is unknown how many of those individuals who undergo treatment for SUD also seek housing from a drug and alcohol recovery house; however, safe, stable housing and a supportive peer community have continually been identified as top needs for individuals to sustain their recovery journey (https://www.thenationalcouncil.org/wp-content/uploads/2017/05/Recovery-Housing-Issue-Brief_May-2017.pdf).

From 2014 to 2016, as recommended by House Bill 1298 of the 2013 Session, the Department convened a Certified Drug and Alcohol Recovery Housing Taskforce comprised of key stakeholders. This Taskforce provided the Department with recommended regulatory language for drug and alcohol recovery houses. The Department used this language as a starting point for its own regulatory draft.

The Pennsylvania General Assembly enacted the act of Dec. 19, 2017 (P.L. 1187, No. 59) (Act 59 of 2017) to add a new subarticle XXIII-A(b) (71 P.S. §§ 613.11-613.18) to the

Administrative Code of 1929 to govern the licensure or certification of drug and alcohol recovery houses. Section 2313-A identifies twelve specific areas the Department must include in the regulations. The Department addressed those areas in the following sections of 28 Pa. Code:

- Section 709.144(b)(2) requires drug and alcohol recovery houses to have a policy that ensures that residents are informed of house rules, residency requirements and lease agreements.
- Section 709.138 requires drug and alcohol recovery houses to have policies and procedures for management of funds received and expended in accordance with standard accounting practices, including funds received from or managed on behalf of residents.
- Section 709.139(a)(7) requires drug and alcohol recovery houses to have policies regarding criminal background checks for operators and employees.
- Section 709.147(b)(5) requires drug and alcohol recovery houses to have a policy that no owner, employee, house officer or related individual shall directly or indirectly solicit or accept a commission, fee or anything of monetary or material value from residents, other related individuals, third party entities or referral sources, beyond specified rent established in writing at the time of residency.
- Section 709.152 requires drug and alcohol recovery houses to have policies and procedures addressing the safety and protection of residents.
- Section 709.150(1) requires drug and alcohol recovery houses to have policies that promote recovery by requiring resident participation in treatment, self-help groups or other recovery supports.

- Section 709.150(2) requires drug and alcohol recovery houses to have policies requiring abstinence from alcohol and illicit drugs.
- Section 709.146 requires drug and alcohol recovery houses to have procedures regarding appropriate use and security of medication.
- Sections 709.152(c) and 709.152(d) require drug and alcohol recovery houses to maintain the property in which the house is located, including the installation of functioning smoke detectors, carbon monoxide detectors and fire extinguishers and compliance with local fire codes.
- Section 709.147(b) requires drug and alcohol recovery houses to have policies and procedures which prohibit an owner, house administrator or employee from requiring a resident to sign any document for the purpose of relinquishing the resident's public assistance benefits, including, but not limited to, medical assistance benefits, cash assistance and Supplemental Nutrition Assistance Program benefits.
- Section 709.154 provides the Department's policies and procedures for managing complaints.
- Section 709.149 requires drug and alcohol recovery houses to notify a family member or other emergency contact designated by the resident under certain circumstances, including death due to an overdose.

In addition to these requirements, Section 2318-A of the Administrative Code (71 P.S. § 618) states that, "In order to receive and maintain licensure or certification, a drug and alcohol recovery house must be in compliance with all Federal, State and local laws, including, but not limited to, the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327). Failure to comply or remain in compliance shall result in loss of licensure or certification and

removal from the registry” of licensed drug and alcohol recovery houses on the Department’s website. The Department included this provision in 28 Pa. Code § 709.151.

The Department distributed a draft of the regulation to a listserv on May 14, 2019 with a request for written comments, suggestions, and objections by June 13, 2019. At the time of distribution, the listserv was comprised of 430 individuals including recovery house operators, drug and alcohol and recovery organizations, advocates, public officials, and others who had contacted the Department with interest in receiving updates on the recovery house licensure process. The Department received a total of 62 letters and e-mails representing 154 unique comments. These comments represented feedback from a broad spectrum of stakeholders, including current recovery house owners, local health and/or human services departments, treatment providers and provider associations, State Representatives, Single County Authorities, and others.

Requirements

The following is a list of requirements for the rulemaking, as well as a summary of the major comments received from the public and the Department’s responses.

The most frequent comment that the Department received on the proposed regulation was the overall cost to comply to the standards. While the intention of Act 59 of 2017 is to set baseline standards for drug and alcohol recovery houses and provide protections for residents, several commentators suggested that some recovery houses would be unable to meet the standards in the regulation and operate without additional funding and referrals from the government. Several commentators added that recovery houses would have to increase rent in order to cover expenses, which would be difficult for residents.

Five commentators stated that recovery houses which already comply with other standards, such as the National Association of Recovery Residences (NARR) or Oxford House International, should already be sufficiently compliant for licensure through the Department. One commentator asked whether the Department would consider a waiver system for inspections if the house is certified or inspected by Single County Authorities.

Three commentators stated that permitting public entities to make referrals only to licensed recovery houses would limit options for individuals in need.

Response

The Department understands that there will be both upfront and ongoing costs in order to comply with the standards for drug and alcohol recovery house licensure, and that many of these costs will lead to increases in the residents' rent. Prospective residents deciding between licensed and unlicensed recovery houses will benefit from the staff training requirements, physical plant, safety and ethical standards, and support for all forms of drug and alcohol treatment, including medication-assisted treatment, that comes with a recovery house licensed by the Department. Licensed recovery houses will see revenue in the form of government funding, increased referrals, and publicity for meeting the licensing standards.

The Department is aware that other organizations, such as NARR and Oxford House International, already hold certain recovery housing communities to particular quality standards, and some of these organizations have their own certification programs. Not all of the provisions required by Act 59 of 2017, however, are required for certification by these organizations and programs. Therefore, drug and alcohol recovery houses certified by these organizations are not necessarily compliant with statutory and regulatory requirements for licensure.

There is no data to suggest that permitting referrals by public agencies only to licensed recovery houses will limit options to individuals in need. With roughly 430 recovery house operators already expressing interest in licensure, plus an unknown number of additional licensees, the Department expects there will be significant capacity for licensed recovery houses. Furthermore, neither the law nor the regulation precludes entities from providing information about housing options outside of licensed recovery houses to individuals in need.

§ 701.1. General definitions.

The Department is adding the definition of *Drug and alcohol recovery house* in Act 59 of 2017.

The Department is amending the definition of *Inpatient nonhospital activity* to remove the phrase “drug and alcohol services.” The Department is replacing “Transitional living facilities” with “Housing in a drug and alcohol recovery house.” The Department is also adding the word “services” to “short-term detoxification.”

The Department is amending the definition of *Residential facility* to replace “transitional living facilities” with “drug and alcohol recovery houses.”

The Department is removing the definition of *Transitional living activity* because currently-licensed transitional living facilities that receive referrals or funding from public entities will have to become licensed as drug and alcohol recovery houses under this chapter. The Department will no longer have separate licensure for transitional living facilities.

Fourteen commentators asked why “drug and alcohol recovery house services” was listed with residential treatment and rehabilitation services and short-term detoxification under *Inpatient nonhospital activity*. Two commentators asked for clarification regarding what the term “drug and alcohol recovery house services” means.

Response

The Department has removed the phrase “drug and alcohol services” as part of the definition of *Inpatient nonhospital activity* and now lists “housing in a drug and alcohol recovery house” as a type of activity, not a service.

§ 704.3. General requirements for projects.

The Department is amending subparagraph (d) to remove the term “transitional living facilities” from staffing requirements for inpatient nonhospital facilities because currently-licensed transitional living facilities that receive referrals or funding from public entities will become licensed as drug and alcohol recovery house licensure program begins. The Department will no longer have separate licensure for transitional living facilities.

§ 704.12. Full-time equivalent (FTE) maximum client/staff and client/counselor ratios.

The Department is removing subparagraph (c) to remove the client/staff ratio exemption for transitional living facilities because currently-licensed transitional living facilities that receive referrals or funding from public entities will have to become licensed as drug and alcohol recovery house licensure program begins. The Department will no longer have separate licensure for transitional living facilities.

Chapter 709. Subchapter G. Standards for inpatient nonhospital activities—transitional living facilities (TLFs).

The Department is removing Chapter 709, Subchapter G, related to licensure standards for transitional living facilities because currently-licensed transitional living facilities that receive referrals or funding from public entities will have to become licensed as drug and alcohol recovery house licensure program begins. The Department will no longer have separate licensure for transitional living facilities.

§ 709.131. Scope.

The Department is adding this section to establish the scope for Chapter 709, Subchapter L, Standards for Drug and Alcohol Recovery House Licensures. This includes scope standards and procedures for issuance of a drug and alcohol recovery house license.

§ 709.132. Legal base.

The Department is adding this section to define the legal authority of the Department to license drug and alcohol recovery houses, which is established under Section 2312-A of the Administrative Code of 1929 (71 P.S. § 613.12).

§ 709.133. Definitions.

The Department is adding this section to define "licensee" and "volunteer" for the purposes of Subchapter L.

Four commentators asked for a definition of "volunteer."

Four commentators asked for a definition of "hours of operation."

Six commentators asked for a definition of a "provisional license."

Response

The Department has now included a definition of "volunteer" in § 709.133.

The only mention of "hours of operation" in the original draft regulation was in 28 Pa. Code § 709.140, relating to Training. The Department has removed the requirement that at least one person trained in CPR be onsite during the recovery house's hours of operation, so this definition is no longer necessary.

The provisional licensure process is described in the Department's regulations under 28 Pa. Code § 709.13, which is specifically incorporated by reference. See 28 Pa. Code § 709.134 .

§ 709.134. Applicable regulations.

The Department is adding this section to incorporate Chapter 701 and Chapter 709, Subchapters A and B by reference, except as modified by § 709.135.

§ 709.135. Application.

The Department is adding this section to specify the licensing application and renewal process, including required policies, procedures, and fees.

One commentator asked if the licensee would have a timeframe to develop a manual of policies and procedures if not available at the time of application.

Two commentators asked if the application fee would be per house, or per organization for an organization that operates multiples recovery houses.

Two commentators asked how often a license renewal is required.

One commentator asked if there would be a capacity-based application fee based on the number of beds.

One commentator stated that the application fee of \$250 is too high.

Response

As described in § 709.135, the licensee is required to submit a copy of all policies and procedures at the time of application.

The application fee is per house, not per organization. The Department has clarified this in § 709.135(a) and § 709.135(b) by stating that initial and renewed licenses must submit an application, policies and procedures, and application fee “for each facility.”

License renewal is annual, in accordance with Section 2314-A(a) of the Administrative Code of 1929.

There will not be a capacity-based application fee based on the number of beds.

The Department determined that a \$250 application fee is appropriate and reasonable in comparison to fees required by other states and national organizations.

The Department will assess an additional fee of \$100 if a provisional license is issued due to a violation cited as a result of a complaint investigation. The Department may waive or reduce this fee when the licensee addresses the violation by implementing an approved plan of correction.

§ 709.136. Fines.

The Department is adding this section to explain the Department's policy for imposing fines on unlicensed recovery houses in accordance with Section 2316-A(a) of the Administrative Code of 1929 (71 P.S. § 613.16(a)).

Section 613.14(c)(1)(iii) states that the Department shall establish "a fee for investigation of complaints." 71 P.S. § 613.14(c)(1)(iii).

Two commentators asked how the Department defined whether a recovery house "requires a license," as any house that requires a license but operates without one will be fined.

Response

As specified in Section 2313-A of the Administrative Code of 1929, "any recovery house that receives funds or referrals from the department, or a Federal, State, or other county agency" will require a license.

§ 709.137. House Manager.

The Department is adding this section to specify the responsibilities and training requirements of drug and alcohol recovery house managers.

One commentator noted that peer-operated homes that are eligible for certification by the National Association of Recovery Residences may not have a house manager. Another commentator asked for clarification on whether the president of an Oxford House would qualify as a house manager. Another commentator asked whether there are any education or work experience requirements in order to be a house manager.

Two commentators stated that a change in a house manager can be a frequent occurrence and notifying the Department each time would be burdensome.

Two commentators suggested that the Department add a timeframe for the house manager to complete training after being hired. Two commentators stated that 12 hours of training annually would be financially burdensome.

One commentator suggested re-naming several of the training areas as follows: "Substance abuse trends" to "Trends in drug use and misuse;" "Disease of addiction" to "Substance use disorders;" "Principles of Alcoholics Anonymous and Narcotics Anonymous" to "Peer support or mutual aid groups;" and "Medication control and self-administration" to "Best practices for medication control and self-administration."

Response

The Department has determined that each licensee must designate a house manager who is responsible for overall management of the drug and alcohol recovery house. The Department permits the licensee to decide the criteria to designate a house manager responsible for obtaining the trainings and performing the duties outlined in § 709.137. These criteria may include specific education or work experience requirements, if the licensee desires. In the self-governing, democratically-run Oxford House model, the president is

charged with moderating discussion during regular business meetings. A licensee of an Oxford House may choose to have the president serve as house manager if the licensee desires.

The Department recognizes that while house managers may change frequently, it is important for the Department to maintain accurate contact information records for each recovery house for communication purposes. In order for the Department to maintain accurate records for each house, the regulation now requires that the licensee notify the Department of any changes in house manager within 30 calendar days.

The Department agrees with both suggestions regarding training and revised the regulation to require six hours of training within six months of hiring and annually thereafter.

The Department agrees with the suggested re-naming of training areas and has revised the regulation accordingly.

§ 709.138. Fiscal management.

The Department is adding this section to specify the licensee's requirements to obtain the services of an independent certified public accountant for an annual financial audit of the drug and alcohol recovery house's operations.

The Department received 12 comments stating concern that an annual financial audit is too costly. One commentator suggested that audits should only be required for larger recovery houses (e.g. houses with ten or more residents).

One commentator suggested that the annual audit be conducted either randomly, or at a specific time each year.

Response

Act 59 of 2017 requires that the regulations include policies and procedures for management of funds received and expended by the recovery house (71 P.S. § 613.13(2)).

The Department recognizes that an annual financial audit will be a new requirement for many recovery house operators. Many individuals enter the recovery house business with little background in finance and an audit will aid the licensee and house manager in maintaining an accurate annual record of all finances on hand, paid out, or due. Furthermore, a major aim of the recovery house regulation is to protect one of Pennsylvania's most vulnerable populations from financial exploitation. The Department believes that a licensee receiving State or Federal funds should undergo a regular audit to ensure that finances are being managed appropriately.

It is the licensee's decision when the audit will occur during the year.

§ 709.139. Personnel management.

The Department is adding this section to specify the licensee's requirement to develop and implement written policies and procedures related to employing drug and alcohol recovery house staff and volunteers, including requirements for what information must be maintained in personnel records.

Five commentators asked what aspects of the Pennsylvania State Police Criminal history record check would disqualify an individual from being hired or volunteering, particularly because many individuals who work in recovery houses may have a criminal history.

Three commentators stated that criminal background checks were costly, and that requiring them prior to hiring is unreasonable. One commentator asked who pays for the background check.

Two commentators stated that inflexible policies on relapse are not a best practice in supporting individuals in recovery.

Two commentators noted that a requirement for annual staff written performance reviews was too intensive.

Response

Act 59 of 2017 requires that the regulations for drug and alcohol recovery houses include "policies regarding criminal background checks for operators and employees of the drug and alcohol recovery house" (71 P.S. § 611.13(3)). Neither the statute nor the regulation requires that the results of a background check disqualify a staff person or volunteer. The Department gives discretion to each licensee to develop a policy regarding the results of a background check.

The Department understands that background checks may delay hiring of staff. According to the Pennsylvania Access to Criminal History (PATCH) website, 85% of "No Record" certificates are returned immediately to the requestor online. There is no fee for obtaining a Pennsylvania State Police background check for volunteers. It is the responsibility of the licensee to pay for the background checks of staff.

The provision related to relapse refers to recovering staff and volunteers, not residents. The Department agrees with the commentators that inflexible policies on relapse are not a best practice in supporting individuals in recovery and encourages licensees to develop thoughtful policies and procedures in this area.

The Department agrees that annual staff written performance reviews was unnecessarily burdensome and has removed the requirement from § 709.139.

§ 709.140. Training.

The Department is adding this section to specify the licensee's requirement to develop written staff development policies and procedures, as well as training requirements for staff and volunteers.

Eleven commentators stated that the training requirements were unrealistic and unduly burdensome. Three commentators stated that time requirement for trainings should be condensed. One commentator stated that the CPR training requirement was unnecessary, as houses may adequately rely on emergency medical services.

Four commentators suggested including an additional training requirement for naloxone administration and recognizing the signs of an overdose.

One commentator suggested that trainings should be completed earlier than one year after hiring due to staff turnover.

Response

In response to the comments about burdensome training requirements, the Department removed the time requirements for six hours of HIV/AIDS training and four hours of tuberculosis and sexually transmitted disease training as well as the requirement for "other health-related disease topics" trainings. The Department also removed the requirement that one person trained in CPR and first aid must be onsite during the recovery house's hours of operation. CPR training, however, is still required for staff persons and volunteers due to the increased risk of overdose in this population.

The Department has added "training on overdose reversal medication" as part of "first aid training."

The Department shortened the time for staff and volunteers to complete the required training from one year to six months.

§ 709.141. Resident rights.

The Department is adding this section to describe what must be included in the licensee's policies and procedures on resident rights.

Two commentators suggested that residents should have to disclose their biological sex if their gender identity does not align with their sex assigned at birth. The reason is that fellow residents who have previously experienced trauma may be uncomfortable sharing a living space with a transgender individual.

Response

The specific provision in the regulation is related to the licensee developing and implementing written policies and procedures on resident rights, which must include, among other things, that “the licensee may not discriminate against an individual or staff on the basis of age, race, sex, religion, ethnic origin, economic status, sexual orientation or gender identity or expression or disability.” A wide range of situations may arise to the level of the house manager and licensee that could be perceived as threatening the comfort, safety, and protection of all residents in the house. While a licensee may or may not have the means to provide for an LGBTQIA-friendly physical plant, such as single bedrooms and all-gender bathrooms, all residents must understand that the licensee may not discriminate against a resident, staff person, or volunteer on the basis of gender identity. If there is discomfort among residents due to any range of situations, including a resident’s gender identity, the licensee must resolve it on a case-by-case basis in accordance with applicable policies and procedures.

§ 709.142. Resident records.

The Department is adding this section to specify contents and storage requirements for resident records.

One commentator asked for clarification of the term “standardized record form.”

Five commentators asked for more details about what information is required in the “medical history” record.

Response

The Department has deleted the requirement to obtain a “standardized record form” at intake.

The Department has deleted the mention of a “medical and drug or alcohol history” in § 709.142 and now provides additional detail in § 709.144(b)(3). Medical history refers to “medical information provided by the resident, including allergies, asthma, seizure disorder, diabetes, pacemaker, and other medical conditions that the resident chooses to have the house record.”

§ 709.143. Resident roster.

The Department is adding this section to specify the contents and storage requirements for the drug and alcohol recovery house’s resident roster. The resident roster must identify each resident admission, end of residency and completion of residency. This information must be stored in a locked cabinet or in a protected digital data system, and must be maintained for each resident for at least four years following their discharge.

§ 709.144. Intake and admission.

The Department is adding this section to specify policy and procedure requirements for resident intake and admission procedures.

One commentator requested that the Department add inclusion criteria for establishing a waitlist as part of the regulation.

One commentator suggested that each new admitted resident sign a contract stating that the resident must follow treatment recommendations, undergo mandatory and random drug screens, follow a plan if they relapse, and other items as deemed appropriate.

Response

Licensees may establish their own criteria for a waitlist as part of the policies and procedures for their recovery house.

As part of the intake and admission process, residents must undergo orientation to “drug and alcohol recovery house rules” under § 709.144(b)(2)(i). If the licensee sets specific rules, these may be part of the resident intake document signed within 24 hours of arrival.

§ 709.145. Notification of decision to end residency.

The Department is adding this section to specify requirements for notifying residents of a licensee’s decision to end their residency.

Two commentators were concerned about the legal ramifications of using the term “eviction.”

One commentator stated that a timeframe for ending a residency should be detailed in the policy because many residents may be far from their original hometowns. Two commentators suggested that ending residency should be immediate if the individual relapses.

Response

The Department has removed the term “eviction” throughout the regulation and replaced with “ending residency.”

The Department has updated § 709.145(a) to require that a notice of ending residency “include the reason and a timeframe.”

§ 709.146. Medication control and self-administration.

The Department is adding this section to specify requirements for policies and procedures on the use of prescription and over-the-counter medications by residents.

Four commentators asked if the policies and procedures on the use of prescription and over-the-counter medications would include specific language requiring admission of individuals who receive medication-assisted treatment (MAT).

Two commentators stated that residents will administer their own medications, as there is no way for the recovery house to track this information.

Response

Licensed recovery houses that receive funds or referrals from the Department, or a Federal, State, or other county agency may not discriminate against individuals who receive MAT or any other form of treatment. Pursuant to § 709.141, "Residents may attend a treatment facility of their choice outside of the drug and alcohol recovery house. The licensee may not require a resident to attend or prohibit a resident from attending a specific treatment facility."

The regulation does not prohibit residents from administering their own medications. The licensee must "develop and implement written policies and procedures on the use of prescription and over-the-counter medications by residents," which include both "self-administration and drug and alcohol recovery house tracking of medication for residents who take medication." A licensee may have policies and procedures that do not allow recovery house staff to track resident medications.

§ 709.147. Financial transactions.

The Department is adding this section to require policies and procedures for resident fee collection by drug and alcohol recovery house staff. This section also describes requirements for recovery house licensees that assist a resident in financial matters, while affording the resident protection from financial exploitation.

One commentator requested a provision about residents forfeiting their security deposits if they break house rules or leave the house without following proper protocols.

Response

The Department has added the word “due” to § 709.147(a)(2): “Documentation that the drug and alcohol recovery house returned all deposits due to the resident when the resident departed the drug and alcohol recovery house, signed and dated by the licensee and resident.”

§ 709.148. Complaint management.

The Department is adding this section to describe requirements for policies and procedures to manage complaints from residents, family members, and community members.

Two commentators suggested that community members filing a complaint may be problematic because not all communities are welcoming to recovery houses.

Response

The Department understands that not all communities and neighbors may be welcoming to recovery houses. A mechanism is still needed, however, for both the recovery house as well as the Department to receive any complaints from residents, family members, and community members. Clear policies and procedures will be important to ensure that complaints are managed properly.

§ 709.149. Notification to family member or emergency contact.

The Department is adding this section to require licensees to develop policies and procedures for notifying the resident’s emergency contact of the resident’s hospitalization or death.

Two commentators suggested an additional policy be required to notify a resident’s emergency contact if the resident moves out or is absent for a prolonged period of time.

Response

There are a wide range of situations in which it may be appropriate for recovery house staff to notify a resident's emergency contacts. While the regulation requires policies and procedures for notification due to a resident's hospitalization or death, the licensee may wish to include other situations for notification, such as a resident moving out or a prolonged absence.

§ 709.150. Resident requirements.

The Department is adding this section to require licensees to develop policies and procedures to require resident participation in treatment and abstention from use and sale of alcohol and illicit drugs.

§ 709.151. Physical plant standards.

The Department is adding this section to describe physical plant requirements for drug and alcohol recovery house licensure including compliance with occupancy and zoning requirements, the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101), conditions of buildings and grounds, furnishings, bedrooms, bathroom, kitchens, and heating and cooling systems.

One commentator asked whether a mechanical dryer or paper towels are required in bathrooms and hand towels are not sufficient.

Two commentators stated the square footage requirements may reduce capacity.

Two commentators stated that fire-retardant mattresses would be cost-prohibitive.

Response

The regulation now states that the licensee shall provide either individual towels, paper towels, or a mechanical dryer in each bathroom.

The Department understands that square footage requirements may reduce desired capacity for the recovery house. These requirements, however, are consistent with current regulations for residential facilities and comparable to other states with regulations for recovery houses to ensure health and safety of residents.

Since 2007, all mattresses manufactured and sold in the United States must meet minimum flammability standards developed by the U.S. Consumer Product Safety Commission (<https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/Mattresses>). The Department does not agree that fire-retardant mattresses are excessively cost-prohibitive due to the range of mattress brands and models available.

§ 709.152. Safety and emergency procedures.

The Department is adding this section to specify requirements for safety and emergency procedures of the drug and alcohol recovery house, including evacuation of residents and staff, requirements for exits, and fire safety procedures.

Nine commentators stated that installing fire escapes would be too expensive. Nine commentators stated that it would not be possible to have two exits on every floor.

Eight commentators stated that certain renovations, such as exterior fire escapes, may not be permitted in certain townships.

Response

The Department understands that fire escape installation is costly. While the risk of a fire may be relatively low, the consequences of a fire can be devastating. According to the U.S. Fire Administration, the relative risk of dying in a fire in Pennsylvania is slightly higher than that of the U.S. general population

(https://www.usfa.fema.gov/data/statistics/fire_death_rates.html). Furthermore, several

research studies have reported that a higher number of residents in a home is one of the factors that increases a risk for house fire the most – similar to smoking, having young children in the house, and having a building in poor condition. The purpose of providing regulations for recovery houses is to create standards for the safety and protection of this vulnerable population in Pennsylvania. Therefore, the Department believes it is necessary to require two exits in the event of a fire. To mitigate the costs associated with fire escape installation, the Department now states that licensees shall maintain a minimum of two exits on every floor “to which the residents have access.”

If there is a situation in which required renovations are in direct conflict with local requirements, the Department will consider waiver requests on a case-by-case basis.

A recovery house must have at least one portable fire extinguisher with a minimum of an ABC rating for every 2,000 square feet of space and fraction of it on each floor. A floor with 2,000 square feet or less would need one fire extinguisher. A floor with 2,001 square feet would need two fire extinguishers: one for the 2,000 square feet of space and an additional fire extinguisher for the additional fraction of space in excess of 2,000 square feet.

§ 709.153. Unusual incidents.

The Department is adding this section to specify requirements for policies and procedures to respond to and document unusual incidents that occur at the drug and alcohol recovery house. Unusual incidents involving physical or sexual assault by a staff, a volunteer or a resident must be documented regardless of whether they occur on or off site of the recovery house.

One commentator stated that reporting the use or sale of illicit drugs on the premises as an “unusual incident” was too strong and recommended changing this provision to “continued” or “repeated use.”

One commentator stated that an unusual incident report should also be filed with a contracting entity, such as a Single County Authority, if applicable.

Response

The Department gives discretion to the licensee to determine its own policies and procedures for responding to the provision of use of illicit drugs on the premises of the recovery house. The only unusual incidents that must be reported to the Department, however, include assault, death or serious injury, natural disaster, an event that requires the presence of first responders, or disease outbreak. See 28 Pa. Code § 709.153(c).

The regulation requires only that the Department as the licensing agency receive unusual incident reports. A licensee may include additional reporting to Single County Authorities in its policies.

§ 709.154. Complaints about drug and alcohol recovery houses.

The Department is adding this section to describe how the Department will accept and manage complaints about drug and alcohol recovery houses from individuals.

Chapter 711. Subchapter F. Standards for Inpatient Nonhospital Activities—Transitional Living Facilities (TLFs).

The Department is removing Chapter 711, Subchapter F, related to certification of treatment activities which are part of a health care facility because currently-licensed transitional living facilities that receive referrals or funding from public entities will become

licensed as drug and alcohol recovery house licensure program begins. The Department will no longer have separate licensure for transitional living facilities.

Affected Individuals and Organizations

The final-omitted rulemaking affects persons, businesses, and organizations that operate drug and alcohol recovery houses. However, the regulations apply only to those drug and alcohol recovery houses that receive or wish to receive funds or referrals from the Department, or a Federal, State, or county agency. In 2018, the Department created an online listserv for recovery houses. Approximately 500 individuals have stated through the listserv their intent to seek licensure, with some individuals operating several houses.

The regulation also removes all regulatory references to transitional living facilities throughout 28 Pa. Code Part V. There are currently 12 transitional living facilities licensed by the Department pursuant to 28 Pa. Code Ch. 709, Subch. G. Transitional living facilities will not automatically become recovery houses; however, if they want to receiving funds or referrals from government agencies as drug and alcohol recovery houses, they may apply to the new licensure program. Of the 12 current transitional living facilities, two receive funds from the Department.

Accomplishments and Benefits

The final-omitted rulemaking establishes the minimum requirements for licensure of recovery houses in Pennsylvania that receive funds or referrals from the Department, or a Federal, State, or other county agency. These requirements will increase the quality and accountability of recovery houses and the services they provide and improve the health and safety of individuals on their path to recovery.

Fiscal Impact

Drug and alcohol recovery houses will pay a license application or renewal fee of \$250 per house. They may incur additional costs to meet standards for compliance with the physical plant requirements in the regulation. These costs will vary based upon the current status of the residence. Drug and alcohol recovery houses will also need to obtain the services of an independent certified public accountant to annually audit activities of management of funds in accordance with standard accounting practices. According to the National Council of Nonprofits, "it is not unusual for an independent audit to cost \$10,000" (<https://www.councilofnonprofits.org/nonprofit-audit-guide/what-is-independent-audit>).

The Department estimates it will incur approximately \$341,411 in annual administrative costs during the first year, and \$323,411 during subsequent years, to implement the regulation. Administrative costs include hiring two Drug and Alcohol Licensing Specialists and one Drug and Alcohol Licensing Specialist Supervisor, as well as costs associated with operation and fixed assets, which includes workstations, computers, software, telephones, training, and lease space. If each of the approximately 500 parties who stated interest through the listserv files one or more applications, the \$250 application fee will generate at least \$125,000 in revenue. Remaining costs will be covered by State funds, as well as Federal grants awarded to the Department.

Paperwork Requirements

The licensee of a drug and alcohol recovery house must obtain the services of an independent certified public accountant for an annual financial audit of the drug and alcohol recovery house's operations. Recordkeeping of personnel files must include

application/resume for employment, a Pennsylvania State Police criminal history record check, any disciplinary actions, and documentation of training. Recordkeeping of resident files must include a consent to residency form, referrals (if applicable), and intake documentation (criteria for residency, signed orientation paperwork, and basic personal, medical, and emergency contact information). Resident records must be maintained for at least four years following the discharge of a resident. Licensees will have to develop and maintain policies and procedures as required by the regulations. Furthermore, the regulated community must maintain a resident roster that identifies each admission, end of residency, and completion of residency.

The Department will have additional paperwork, including a recovery house licensing checklist, a new facility application, a license renewal form, and a provisional license form. For payment of the \$250 application, renewal, and provisional license fee, an online credit card payment system will be available for licensees.

Public Comment

Although this regulation is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections regarding the regulation to the Department at the following address: Jordan Lewis, Policy Director, Department of Drug and Alcohol Programs, 2601 N 3rd Street, Harrisburg, PA 17110, (717) 736-7466, jorlewis@pa.gov. Comments will be reviewed and considered for any subsequent revision of the regulation.

Sunset Date

There is no sunset date for this regulation.

Effective Date

This final-omitted rulemaking will take effect upon publication in the Pennsylvania Bulletin.

Contact Person

The agency contacts are Jordan Lewis, Policy Director, Department of Drug and Alcohol Programs, 2601 N 3rd Street, Harrisburg, PA 17110, (717) 736-7466, jorlewis@pa.gov; and Jodi Skiles, Bureau Director, Program Licensure, 2601 N 3rd Street, Harrisburg, PA 17110, (717) 736-7454, joskiles@pa.gov.

Regulatory Review Act

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on _____, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Human Services and Senate Health and Human Services Committees. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101— 732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on _____, the final-omitted rulemaking was approved by the House Human Services and Senate Health and Human Services Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____ and approved the final-omitted rulemaking.

Findings

The Department finds that:

(1) Final-omitted rulemaking is allowed when procedures specified in sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202), are impracticable, unnecessary or contrary to the public interest. 45 P.S. § 1204(3).

(2) Section 613.13 of the Administrative Code authorizes the Department to promulgate final-omitted regulations for the licensure of drug and alcohol recovery houses in Pennsylvania. 71 P.S. § 613.13.

(3) That the adoption of this final-omitted regulation is necessary and appropriate for the licensure of recovery houses in Pennsylvania.

Order

The Department, acting under authorizing statute, orders that:

(a) The regulations of the Department, 28 Pa. Code, Chapters 701, 704, 709, and 711, are amended by amending § 701.1, § 704.3, § 704.12, § 709 in Subchapter G, § 711 in Subchapter F, and adopting § 709.131 – 709.154 to read as set forth in Annex A.

(b) The Department shall submit a copy of this final-omitted regulation to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Department shall submit this final-omitted regulation to IRRC and the House Human Services and Senate Health and Human Services Committees as required by law.

(d) The Secretary of the Department shall certify this final-omitted regulation and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-omitted regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

JENNIFER S. SMITH,
Secretary

Annex A

TITLE 28. HEALTH AND SAFETY

PART V. DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS

CHAPTER 701. GENERAL PROVISIONS

SUBCHAPTER A. DEFINITIONS

§ 701.1. General definitions.

* * * * *

Drug and alcohol recovery house—As defined in Section 2311-A of the Administrative Code of 1929 (71 P.S. § 613.11).

* * * * *

Inpatient nonhospital activity—A nonhospital, residential facility, providing one of the following [drug and alcohol services]:

- (i) Residential treatment and rehabilitation services.
- (ii) [Transitional living services.] Housing in a drug and alcohol recovery house.
- (iii) Short-term detoxification services.

* * * * *

Residential facility—An inpatient, nonhospital facility or inpatient freestanding psychiatric hospital that provides sleeping accommodations and provides one or more of the following activities: residential treatment and rehabilitation services, [transitional living services] drug and alcohol recovery houses or short-term detoxification services, 24 hours a day.

* * * * *

[*Transitional living activity*—The provision of supportive services in a semiprotected home-like environment to assist a client in his gradual reentry into the community. No formal treatment—counseling/psychotherapy—takes place at the facility. This is a live-in/work-out situation.]

* * * * *

§ 704.3. General requirements for projects.

* * * * *

(d) Inpatient nonhospital facilities except for **[transitional living facilities and]** licensed facilities providing halfway house services shall have awake staff coverage 24 hours a day. Halfway houses shall have at least one staff person on the premises at all times.

* * * * *

§ 704.12. Full-time equivalent (FTE) maximum client/staff and client/counselor ratios.

* * * * *

(b) *Counselor assistants.* Counselor assistants may be included in determining FTE ratios when the counselor assistant is eligible for a caseload.

[(c) *Exemption for transitional living.* Specific client/staff ratios are not required for transitional living facilities.

(d)](c) *Exceptions.* A project director may submit to the Department a written petition requesting an exception to the client/staff and client/counselor ratios in this section. The petition shall describe how the characteristics of the program and its client mix support the request for the exception and shall be approved by the

governing body. Granting the petition shall be at the discretion of the Department. Long-term residential facilities and halfway houses which include a client's participation in schooling or employment as part of a treatment day are examples when requests for exceptions will be considered.

* * * * *

CHAPTER 709. STANDARDS FOR LICENSURE OF FREESTANDING TREATMENT FACILITIES AND DRUG AND ALCOHOL RECOVERY HOUSES

Subchapter G. (Reserved).

§ 709.71. (Reserved).

§ 709.72. (Reserved).

§ 709.73. (Reserved).

* * * * *

SUBCHAPTER L. STANDARDS FOR DRUG AND ALCOHOL RECOVERY HOUSE LICENSURE

§ 709.131. Scope.

(a) This subchapter establishes the procedures for the issuance of a drug and alcohol recovery house license.

(b) This subchapter provides standards for the licensure of a drug and alcohol recovery house under subarticle B of Article XXIII-A of the Administrative Code of 1929 (71 P.S. §§ 613.11 – 613.18).

§ 709.132. Legal base.

The authority of the Department to license drug and alcohol recovery houses is established under Section 2312-A of the Administrative Code of 1929 (71 P.S. § 613.12).

§ 709.133. Definitions.

For purposes of this subchapter, the following words have the following meanings:

Licensee—A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of a drug and alcohol recovery house to which the Department has issued a license.

Volunteer—A person who assists in implementing daily program activities under the supervision of a project staff person or house manager without promise, expectation or receipt of compensation for services rendered.

§ 709.134 Applicable regulations.

Chapter 701 (relating to general provisions) and Chapter 709, Subchapters A and B (relating to standards for licensure of freestanding treatment facilities – general provisions, and standards for licensure of freestanding treatment facilities – licensing procedures) are incorporated by reference, except as modified by section 709.135.

§ 709.135. Application.

(a) An applicant for an initial license shall submit to the Department the following for each facility:

(1) An application on a form prescribed by the Department.

(2) A copy of all policies and procedures required under sections 709.139-709.141, 709.144, 709.146-709.150, 709.152-709.153.

(3) An application fee of \$250.

(b) A licensee applying for renewal of a license shall submit to the Department the following for each facility:

(1) An application on a form prescribed by the Department.

(2) A copy of all policies and procedures required under sections 709.139-709.141, 709.144, 709.146-709.150, 709.152-709.153 that have been revised since the previous application.

(3) An application fee of \$250.

(c) The Department will assess a fee of \$250 in addition to the fees in subsections (a) and (b) for issuance of a provisional license under § 709.13.

(d) The Department will assess a fee of \$100 in addition to the fees in subsections (a), (b), and (c) for issuance of a provisional license under § 709.13 based on a violation cited as a result of a complaint investigation. The Department may waive or reduce the fee under this subsection when the licensee fully implements an approved plan of correction.

(e) The Department will not issue or renew a license until the applicant or licensee has completed and submitted all forms, documents, and fees required under this section.

§ 709.136. Fines.

- (a) The Department will impose fines on 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.

§ 709.137. House Manager.

- (a) The licensee shall designate a house manager to be the administrator of the drug and alcohol recovery house who is responsible for the management of the drug and alcohol recovery house, staff and volunteers.
- (b) The licensee shall identify the house manager in the application submitted to the Department and shall notify the Department in writing any time the house manager changes within 30 days.
- (c) The house manager shall complete at least 6 hours of training in one or more of the following areas within 6 months of becoming house manager, and annually thereafter:

 - (1) Fiscal policy.
 - (2) Administration.
 - (3) Program planning.
 - (4) Quality assurance.
 - (5) Program licensure.
 - (6) Personnel management.

- (7) Confidentiality.
- (8) Ethics.
- (9) Trends in drug use and misuse.
- (10) Developmental psychology.
- (11) Interaction of addiction and mental illness.
- (12) Cultural awareness.
- (13) Sexual harassment.
- (14) Relapse prevention.
- (15) Substance use disorders.
- (16) Peer support or mutual aid groups.
- (17) Best practices for medication control and self-administration.
- (18) Infection control.

§ 709.138. Fiscal management.

The licensee shall obtain the services of an independent certified public accountant for an annual financial audit of the drug and alcohol recovery house's operations, under generally accepted accounting principles.

§ 709.139. Personnel management.

(a) The licensee shall develop and implement written personnel policies and procedures in compliance with State and Federal employment laws. The written policies and procedures must include:

- (1) Use of volunteers.
- (2) Rules of conduct.
- (3) Supervision of staff.

- (4) Orientation of new employees.
- (5) Prohibition on providing or using alcohol or illicit drugs on the premises of the drug and alcohol recovery house, including consequences for a violation of the policy.
- (6) Relapse of recovering staff and volunteers, including consequences for a violation of the policy.
- (7) Completion of a Pennsylvania State Police Criminal history record check for the house manager, all staff and volunteers before beginning services at the drug and alcohol recovery house.

(b) The licensee shall maintain a personnel record for the house manager and each staff person and volunteer, which must include:

- (1) Application or resume.
- (2) A Pennsylvania State Police criminal history record check.
- (3) Disciplinary actions.
- (4) A written job description for each drug and alcohol recovery house position.
- (5) Documentation of training.

§ 709.140. Training.

(a) The licensee shall develop and implement written staff development policies and procedures that identify the person responsible and the time frames for completion of the following:

- (1) An assessment of training needs for each staff person and volunteer.
- (2) A plan for addressing those needs.

(3) A mechanism to collect feedback on completed training.

(b) The licensee shall conduct and document an evaluation of the training plan annually.

(c) In addition to training identified and provided under subsection (a), staff persons and volunteers shall complete the following within 6 months of becoming an employee or volunteer:

(1) Cardiopulmonary resuscitation (CPR) certification.

(2) First aid training, including training on overdose reversal medication.

(3) HIV/AIDS, tuberculosis and sexually transmitted diseases training using a Department approved curriculum.

(4) Fire prevention and emergency preparedness, including use of a fire extinguisher.

§ 709.141. Resident rights.

(a) The licensee shall develop and implement written policies and procedures on resident rights which must include:

(1) Residents shall retain all civil rights that have not been specifically curtailed by separate judicial or administrative determination by the appropriate legal authority.

(2) The licensee may not discriminate against an individual or staff on the basis of age, race, sex, religion, ethnic origin, economic status, disability, sexual orientation or gender identity or expression.

(3) Residents have the right to inspect their own records.

(4) Residents have the right to request the correction of information in their records on the basis that it is inaccurate, irrelevant, outdated or incomplete.

(5) Residents have the right to submit a rebuttal to information in their records.

(6) Residents may attend a treatment facility of their choice outside of the drug and alcohol recovery house. The licensee may not require a resident to attend or prohibit a resident from attending a specific treatment facility.

(b) The licensee shall obtain written acknowledgement by residents that they have received notice of their rights.

§ 709.142. Resident records.

(a) The licensee shall maintain an individual record for each resident which must include:

(1) All records obtained during intake under § 709.144.

(2) Consent to residency form.

(3) Referrals to and from the drug and alcohol recovery house, if applicable.

(b) The licensee shall keep hard copy resident records in a locked cabinet and secure digital resident records on a protected data system.

(c) The licensee shall maintain resident records, regardless of format, for at least four years following the discharge of a resident.

(d) If the licensee discontinues operation of a drug and alcohol recovery house, it shall notify the Department where it will store resident records.

§ 709.143. Resident roster.

(a) The licensee shall maintain a resident roster that identifies each resident admission, end of residency and completion of residency.

(b) The licensee shall maintain the information in subsection (a) on the resident roster for each resident for at least four years following the discharge of the resident.

(c) The licensee shall store physical copies of the resident roster in a locked cabinet or secure digital copies of the resident roster in a protected data system.

§ 709.144. Intake and admission.

(a) The licensee shall develop and implement written policies and procedures for resident intake and admission which include:

(1) Admission criteria.

(2) Requirements for completion of residency.

(3) Criteria for ending residency, including a timeline.

(b) The licensee shall complete the following resident intake documentation, which must be signed by the resident, within 24 hours of arrival:

(1) Disclosure to the resident of criteria for admission and ending residency.

(2) Resident orientation to the drug and alcohol recovery house which must include:

- (i) Drug and alcohol recovery house rules.
- (ii) Fee schedule including the lease agreement.
- (iii) Supports provided by the drug and alcohol recovery house, as well as referrals to other essential services as needed.
- (iv) Financial policies and procedures.
- (v) The location of posted emergency procedures and contact information for the house manager and the Department.
- (vi) Medication control and self-administration policies. (3) Basic

personal data including:

- (i) Name.
 - (ii) Birth date.
 - (iii) Demographic information.
 - (iv) Medical information provided by the resident, including allergies, asthma, seizure disorder, diabetes, pacemaker, and other medical conditions that the resident chooses to have in the house record.
 - (v) Drug and alcohol history.
 - (vi) Medical contact information.
 - (vii) Emergency contact.
- (4) Consent to residency.
 - (5) Disclosure to the resident of the recovery house's policies and procedures for situations when recovery house staff may notify the resident's emergency contact.

§ 709.145. Notification of decision to end residency.

- (a) The licensee shall notify the resident in writing of a decision to end residency. The notice must include the reason and a timeframe for ending residency.**
- (b) The resident shall have an opportunity to request the licensee reconsider a decision to end residency.**

§ 709.146. Medication control and self-administration.

The licensee shall develop and implement written policies and procedures on the use of prescription and over-the-counter medications by residents, which must include:

- (1) Self-administration and drug and alcohol recovery house tracking of medication for residents who take medication.**
- (2) Safe storage of medication by the drug and alcohol recovery house and residents and procedures to address loss, theft, abandonment or misuse of medications.**
- (3) Safe disposal of unused, expired or abandoned medication, in accordance with State and Federal regulations.**
- (4) Emergency procedures if an adverse medication reaction or overdose occurs on premises. The licensee shall have and make available overdose reversal medication on the premises of the drug and alcohol recovery house at all times.**
- (5) Prohibition on sharing prescription medication.**

§ 709.147. Financial transactions.

- (a) The licensee shall develop and implement written policies and procedures to maintain a complete record of collection of fees, payments and deposits between an employee of the drug and alcohol recovery house and the resident or on behalf of the resident. The record must include:**
- (1) All fee deposits, resident fees and other monetary transactions between the drug and alcohol recovery house and the resident.**
 - (2) Documentation that the drug and alcohol recovery house returned all deposits due to the resident when the resident departed the drug and alcohol recovery house, signed and dated by the licensee and resident.**
- (b) The licensee shall develop and implement written policies and procedures that prohibit the licensee, staff, volunteers or contractors of the drug and alcohol recovery house from:**
- (1) Requiring a resident to sign a document relinquishing the resident's public assistance benefits, including medical assistance benefits, cash assistance, Supplemental Security Income and Supplemental Nutrition Assistance Program benefits.**
 - (2) Requiring a resident to surrender cash or sign over a paycheck.**
 - (3) Borrowing money from a resident or lending money to a resident.**
 - (4) Buying property from a resident or selling property to a resident.**
 - (5) Directly or indirectly soliciting or accepting a commission, fee or anything of monetary or material value from residents, other related**

individuals, third-party entities or referral sources, beyond specified
rent established in writing at the time of residency.

(c) Residents maintain the right to manage their own personal finances.

(d) A licensee may assist a resident in managing the resident's finances,
budgeting, and spending.

(1) The licensee shall keep a record of financial transactions, including
the dates, amounts of deposits, amounts of withdrawals and the
current balance.

(2) The licensee shall disburse resident funds during normal business
hours within 24 hours of the resident's request.

(3) The licensee shall obtain a written receipt from the resident for cash
disbursements at the time of disbursement.

(4) The licensee shall only use resident funds and property for the
resident's benefit.

(5) The licensee may not commingle resident funds and house funds.

(6) If the licensee is holding more than \$200 for a resident for more than
two consecutive months, the licensee shall notify the resident and
offer assistance in establishing an interest-bearing account in the
resident's name at a local Federally-insured financial institution. This
does not include security deposits.

(7) The licensee, staff, volunteers, or contractors shall not be assigned
power of attorney or guardianship of a resident or a resident's
estate.

(8) The licensee shall maintain a copy of the itemized account in the resident's record.

(9) The licensee shall provide the resident the opportunity to review their own financial record upon request during normal business hours.

(e) The licensee shall establish a written agreement with a resident before assisting in managing the resident's finances.

(1) The licensee and resident shall sign the agreement.

(2) The agreement must include:

(i) The financial assistance provided by the licensee.

(ii) The right of the resident to at least 30 days advance notice, in writing, of the licensees' request to change the agreement.

(iii) The right of the resident to rescind the agreement in writing.

(3) The licensee shall maintain a copy of the financial management services agreement in the resident's record.

§ 709.148. Complaint management.

The licensee shall develop and implement written policies and procedures for managing complaints from residents, family members and community members, which must include procedures for informing residents, family members and community members of the complaint process, including the ability to file a complaint with the Department.

§ 709.149. Notification to family member or emergency contact.

The licensee shall develop and implement written policies and procedures for notifying the resident's emergency contact of the resident's hospitalization or death.

§ 709.150. Resident requirements.

The licensee shall develop and implement written policies and procedures that:

- (1) Promote and require that residents participate in treatment, self-help groups or other drug and alcohol recovery supports.
- (2) Require that residents abstain from use and sale of alcohol and illicit drugs, and provide consequences for failure to abstain.

§ 709.151. Physical plant standards.

(a) General requirements for drug and alcohol recovery houses.

- (1) The licensee shall:
 - (i) Meet all applicable local occupancy and zoning requirements.
 - (ii) Follow applicable Federal, State and local laws and ordinances, including the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101).

(b) Building interior, exterior and grounds.

- (1) The licensee shall:
 - (i) Keep the interior, exterior, and grounds or yard of the drug and alcohol recovery house clean, safe, sanitary and in good repair and free of hazards at all times.
 - (ii) Store all trash in noncombustible, covered containers that prevent the penetration of insects and rodents and remove all

trash at least once each week.

(iii) Keep the drug and alcohol recovery house free of rodent and insect infestation.

(iv) Limit smoking to designated outside smoking areas.

(v) Keep exterior exits, stairs and walkways lighted at night.

(c) Living rooms and lounges.

(1) The licensee shall:

(i) Provide at least one living room or lounge for the free and informal use by residents, their families and invited guests.

(ii) Maintain furnishings in a state of good repair.

(d) Sleeping accommodations.

(1) Each drug and alcohol recovery house bedroom must have the following:

(i) A bed in good repair with a solid foundation and fire-retardant mattress for each resident.

(ii) A pillow, sheets and other bedding in good condition and appropriate for the temperature in the drug and alcohol recovery house for each resident.

(iii) A storage area for clothing for each resident.

(iv) At least 60 square feet of floor space per resident measured wall to wall in each shared bedroom.

- (v) At least 50 square feet of floor space per resident measured wall to wall in each shared bedroom with bunk beds. Bunk beds must:

 - (A) Provide enough space in between each bed and the ceiling to allow a resident to sit up in bed.
 - (B) Be equipped with a securely attached ladder capable of supporting a resident.
 - (C) Be equipped with securely attached railings on each open side and open end of the bunk.
- (vi) At least 70 square feet of floor space measured wall to wall in each single bedroom.
- (vii) Direct access to a corridor or external exit.
- (viii) Ventilation by operable windows or have mechanical ventilation.
- (ix) A window with a source of natural light.
- (2) A bedroom may not:

 - (i) Be used as a means of egress from or access to another part of the drug and alcohol recovery house.
 - (ii) Contain the sole egress to a stairway or basement.
- (3) Bedrooms located in a basement must have:

 - (i) Wall, floor and ceiling coverings such as tile, linoleum, paneling or dry wall.
 - (ii) A protective fire wall between the bedroom and a furnace.

(iii) A direct means of egress from the basement to the outside.

(e) Bathrooms. The licensee shall:

- (1) Provide bathrooms to accommodate staff, volunteers and guests.
- (2) Provide a sink, a wall mirror, a soap dispenser and either individual towels, paper towels, or a mechanical dryer in each bathroom.
- (3) Have hot and cold water under pressure. Hot water temperature may not exceed 120°F.
- (4) Provide privacy in toilets by doors, and in showers and bathtubs by partitions, doors or curtains. There must be slip-resistant surfaces in all bathtubs and showers.
- (5) Ventilate toilet and wash rooms by exhaust fan or window.
- (6) Provide toilet paper at each toilet at all times.
- (7) Maintain each bathroom in a functional, clean and sanitary manner at all times.

(f) Kitchens. The licensee shall:

- (1) Provide a kitchen area with capacity for residents to safely store food items and prepare meals. The kitchen area must include refrigerator, sink, stove, oven and cabinet space in a good state of repair.
- (2) Ensure that storage areas for foods are free of food particles, dust and dirt.
- (3) Ensure that refrigerators maintain cold food at or below 40°F and freezers maintain frozen food at or below 0°F.

(4) Ensure that food items are stored off the floor.

(g) Heating and cooling. The licensee:

(1) Shall maintain an indoor temperature in the drug and alcohol recovery house between 65°F and 90°F at all times.

(2) May not use or permit portable space heaters.

§ 709.152. Safety and emergency procedures.

(a) Policies and procedures. The licensee shall develop and implement written policies and procedures for staff and residents to follow in an emergency which must include provisions for:

(1) The evacuation and transfer of residents and staff to a safe location.

(2) Assignments of staff during emergencies.

(3) The evacuation and transfer of residents impaired by alcohol or other drugs.

(4) Notification to the Department within 48 hours of a fire, other disaster or situation which affects the continuation of operations.

(b) Exits. The licensee shall:

(1) Ensure that stairways, hallways and exits from rooms and from the drug and alcohol recovery house are unobstructed.

(2) Maintain a minimum of two exits on every floor to which the residents have access, including the basement, that are separated by a minimum distance of 15 feet. Portable ladders and rope escapes at windows are not considered exits, but may be used in addition to exits.

(3) 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.

(4) Indicate exits using clear signs.

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

(c) Smoke and carbon monoxide detectors.

(1) The licensee shall:

(i) Maintain at least one operable, automatic smoke detector on each floor, including the basement and attic.

(ii) Maintain a smoke detector within 15 feet of each bedroom door on floors with resident bedrooms.

(iii) Repair inoperable smoke detectors within 48 hours.

(iv) Maintain carbon monoxide detectors in drug and alcohol recovery houses that have heating systems in which carbon monoxide is a byproduct of the heating system and in drug and alcohol recovery houses with attached garages. The carbon monoxide detector must be located within 15 feet of the carbon monoxide source, audible to drug and alcohol recovery house residents and maintained in an operable state.

(v) Inspect, test and document that all smoke detectors and carbon monoxide detectors are functional monthly.

(2) Requirements for smoke and carbon monoxide detectors:

(i) Each smoke detector and carbon monoxide detector must be

of a type approved by the Department of Labor and Industry or by the Underwriters Laboratories and must provide both and audible and visual alerts.

(d) Fire extinguishers. The licensee shall:

- (1) Maintain at least one portable fire extinguisher with a minimum of an ABC rating for every 2,000 square feet of space and fraction of it on each floor.**
- (2) Maintain at least one portable fire extinguisher with a minimum of an ABC rating in each kitchen in addition to the fire extinguishers required under paragraph (1). The extinguisher in the kitchen must 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 must be indicated on the extinguisher or inspection tag; the licensee shall replace or repair a fire extinguisher found to be inoperable within 48 hours.**

§ 709.153. Unusual incidents.

- (a) The licensee shall develop and implement written policies and procedures to respond to the following unusual incidents:**
 - (1) Physical assault or sexual assault by staff, a volunteer or a resident.**
 - (2) Provision or use of illicit drugs on the premises.**

- (3) Death or serious injury due to trauma, suicide, medication error or unusual circumstances while residing at the drug and alcohol recovery house.**
- (4) Significant disruption due to disaster such as fire, storm, flood or other occurrence which closes the drug and alcohol recovery house for more than 1 day.**
- (5) Theft, burglary, break-in or similar incident at the drug and alcohol recovery house.**
- (6) Event at the drug and alcohol recovery house requiring the presence of police, fire or ambulance personnel.**
- (7) Fire or structural damage to the drug and alcohol recovery house.**
- (8) Outbreak of a contagious disease requiring Centers for Disease Control (CDC) notification.**

(b) The licensee shall develop and implement written unusual incident policies and procedures which must include the following:

- (1) Documentation of the unusual incident.**
- (2) Prompt review and identification of the direct and indirect causes of the unusual incident.**
- (3) Implementation of a timely and appropriate plan of correction, when indicated.**
- (4) Ongoing monitoring of the plan of correction.**

(c) The licensee shall file a written unusual incident report with the Department within three business days following an unusual incident involving:

- (1) Physical or sexual assault by staff or a resident.**
- (2) Death or serious injury due to trauma, suicide, medication error or unusual circumstances.**
- (3) Fire, storm, flood or other occurrence that results in the closure of the drug and alcohol recovery house or the relocation of residents for more than one day.**
- (4) An event at the drug and alcohol recovery house requiring the presence of police, fire or ambulance personnel.**
- (5) Outbreak of a contagious disease requiring CDC notification.**

§ 709.154. Complaints about drug and alcohol recovery houses.

- (a) The Department will accept complaints from any individual about drug and alcohol recovery houses that have or are required to have licenses.**
- (b) An individual who submits a complaint may request to remain anonymous. The Department will disclose the individual's identity as required under law.**
- (c) The Department:**
 - (1) Will investigate complaints that allege a violation of subarticle B of Article XXIII-A of the Administrative Code of 1929 (71 P.S. §§ 613.11-613.18) or this subchapter.**
 - (2) May refer complaints that do not allege a violation of subarticle B of Article XXIII-A of the Administrative Code of**

1929 (71 P.S. §§ 613.11-613.18) or this subchapter to another Federal, State, or local agency or entity.

(3) Will report complaints that allege abuse, neglect, or a criminal violation to law enforcement.

(d) The Department will assess complaints under paragraph (c)(1) based on the degree of risk to residents' health or safety.

(1) The Department will begin an investigation of a complaint that alleges a direct threat to the health or safety of a resident within two business days.

(2) The Department will begin an investigation of a complaint that does not allege a direct threat to the health or safety of a resident within five business days.

(e) The Department may conduct an announced or unannounced onsite inspection of any complaint under paragraph (c)(1).

(f) The Department will provide a summary of its findings of an investigation of a complaint under paragraph (c)(1) to the individual who made the complaint.

* * * * *

**CHAPTER 711. STANDARDS FOR CERTIFICATION OF TREATMENT ACTIVITIES
WHICH ARE A PART OF A HEALTH CARE FACILITY**

Subchapter F. (Reserved).

§ 711.71. (Reserved).

§ 711.72. (Reserved).

§ 711.73. (Reserved).

§ 711.74. (Reserved).

§ 711.75. (Reserved).

§ 711.76. (Reserved).

§ 711.77. (Reserved).



March 1, 2021

Delivered via e-mail

David Sumner, Executive Director
Independent Regulatory Review Commission
333 West Market Street, 14th Floor
Harrisburg, Pennsylvania 17120

Re: DDAP Final-Form Rulemaking #74-4: Standards for Drug and Alcohol Recovery House Licensure

Dear Mr. Sumner:

Enclosed is a final regulation without publication as proposed rulemaking that will establish a licensure program for drug and alcohol recovery houses that receive funds or referrals from the Department of Drug and Alcohol Programs, or a Federal, State, or other county agency.

Nationally, amid an opioid epidemic, the substance use disorder treatment community has seen a recent influx of unscrupulous individuals who seek to enrich themselves by exploiting those in recovery. Without codified recovery housing standards or protections, there are unknown numbers of unregulated, substandard facilities providing low-quality to no supportive services, committing insurance fraud, and exploiting vulnerable populations. Without adequate supports, individuals with substance use disorder (SUD) are at greater risk of relapse, increasing their chance of overdose and death. The Pennsylvania General Assembly enacted the act of Dec. 19, 2017 (P.L. 1187, No. 59) (Act 59 of 2017) to add a new subarticle XXIII-A(b) (71 P.S. §§ 613.11-613.18) to the Administrative Code of 1929 to govern the licensure of drug and alcohol recovery houses in Pennsylvania.

This final regulation, which amends the *Pennsylvania Code*, Title 28, Chapter 701 (General Provisions), Chapter 704 (Staffing Requirements for Drug and Alcohol Treatment Activities), Chapter 709 (Standards for Licensure of Freestanding Treatment Facilities), and Chapter 711 (Standards for Certification of Treatment Activities which are a Part of a Health Care Facility), is submitted for your review pursuant to the Regulatory Review Act.

The final-form rulemaking was e-delivered to Majority Chair and Minority Chair of the House Human Services Committee, the Majority Chair and Minority Chair of the Senate Health and Human Services Committee, the Office of Attorney General, and the Legislative Reference Bureau. Confirmation of the deliveries is contained in the final form rulemaking packet.

Sincerely,

A handwritten signature in black ink that reads "Jennifer S. Smith". The signature is written in a cursive, flowing style.

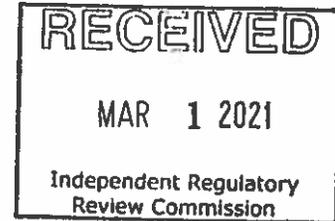
Jennifer S. Smith
Secretary of the Department of Drug and Alcohol Programs

Stephen Hoffman

From: Erin Raub <Eraub@pahousegop.com>
Sent: Monday, March 1, 2021 9:20 AM
To: Fellin, Daniel
Cc: Conrad, Laura
Subject: Re: Recovery House regulations for Rep. Farry

Received

Sent from my iPhone



On Mar 1, 2021, at 9:19 AM, Fellin, Daniel <dfellin@pa.gov> wrote:

Attached please find Rep. Farry's copy of the Department of Drug and Alcohol Programs' final-omitted regulations for the licensure of drug and alcohol recovery houses.

The merged file contains:

- A cover letter from Secretary Smith
- The Face Sheet for the regulations
- The Preamble
- The Annex
- The Regulatory Analysis Form
- The Drug and Alcohol Recovery House licensing application
- The Recovery House licensing checklist

Please reply to this message at your earliest convenience with confirmation that the House Majority Committee on Human Services has received this packet so that the Department can complete delivery to the Independent Regulatory Review Commission today as provided by the Pennsylvania Regulatory Review Act.

Thank you.

Daniel Fellin | Chief Counsel for the Department of Drug and Alcohol Programs
Governor's Office of General Counsel
Commonwealth of Pennsylvania
2601 North Third St. | One Penn Center | Harrisburg, PA 17120
Phone: 717.783.8200 | Fax: 717.214.1939
dfellin@pa.gov

www.ogc.state.pa.us

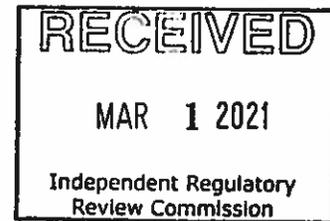
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Stephen Hoffman

From: Sisak, Caleb <CSisak@pahouse.net>
Sent: Monday, March 1, 2021 10:11 AM
To: Fellin, Daniel
Cc: Conrad, Laura
Subject: Re: Recovery House regulations for Rep. Cruz

Received - thank you.

Caleb Sisak
Executive Director | Human Services Committee
717.350.9180 (Cell)



From: Fellin, Daniel <dfellin@pa.gov>
Sent: Monday, March 1, 2021 9:21 AM
To: Sisak, Caleb <CSisak@pahouse.net>
Cc: Conrad, Laura <laurconrad@pa.gov>
Subject: Recovery House regulations for Rep. Cruz

Attached please find Rep. Cruz's copy of the Department of Drug and Alcohol Programs' final-omitted regulations for the licensure of drug and alcohol recovery houses.

The merged file contains:

- A cover letter from Secretary Smith
- The Face Sheet for the regulations
- The Preamble
- The Annex
- The Regulatory Analysis Form
- The Drug and Alcohol Recovery House licensing application
- The Recovery House licensing checklist

Please reply to this message at your earliest convenience with confirmation that the House Minority Committee on Human Services has received this packet so that the Department can complete delivery to the Independent Regulatory Review Commission today as provided by the Pennsylvania Regulatory Review Act.

Thank you.

Daniel Fellin | Chief Counsel for the Department of Drug and Alcohol Programs
Governor's Office of General Counsel
Commonwealth of Pennsylvania
2601 North Third St. | One Penn Center | Harrisburg, PA 17120
Phone: 717.783.8200 | Fax: 717.214.1939
dfellin@pa.gov

www.oqc.state.pa.us

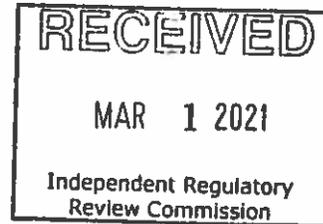
Stephen Hoffman

From: Bradbury, Joan <jbradbury@pasen.gov>
Sent: Monday, March 1, 2021 10:00 AM
To: Fellin, Daniel
Cc: Conrad, Laura
Subject: RE: Recovery House regulations for Sen. Brooks

Received. Thank you!

Joan Bradbury

Executive Director
Senate Health & Human Services Committee
Office of Senator Michele Brooks
168 Main Capitol Building
717-787-1475 (direct)



From: Fellin, Daniel <dfellin@pa.gov>
Sent: Monday, March 1, 2021 9:20 AM
To: Bradbury, Joan <jbradbury@pasen.gov>
Cc: Conrad, Laura <laurconrad@pa.gov>
Subject: Recovery House regulations for Sen. Brooks

Ⓜ CAUTION : External Email Ⓜ

Attached please find Sen. Brooks' copy of the Department of Drug and Alcohol Programs' final-omitted regulations for the licensure of drug and alcohol recovery houses.

The merged file contains:

- A cover letter from Secretary Smith
- The Face Sheet for the regulations
- The Preamble
- The Annex
- The Regulatory Analysis Form
- The Drug and Alcohol Recovery House licensing application
- The Recovery House licensing checklist

Please reply to this message at your earliest convenience with confirmation that the Senate Majority Committee on Health and Human Services has received this packet so that the Department can complete delivery to the Independent Regulatory Review Commission today as provided by the Pennsylvania Regulatory Review Act.

Thank you.

Daniel Fellin | Chief Counsel for the Department of Drug and Alcohol Programs
Governor's Office of General Counsel
Commonwealth of Pennsylvania

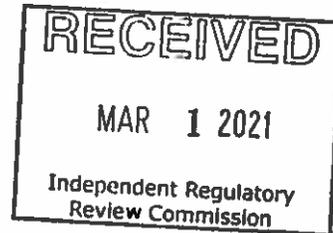
Stephen Hoffman

From: Freeman, Clarissa <Clarissa.Freeman@pasenate.com>
Sent: Monday, March 1, 2021 9:23 AM
To: Fellin, Daniel
Cc: Conrad, Laura
Subject: RE: Recovery House regulations for Sen. Haywood

Received.

Clarissa L Freeman, Esq.
Health and Human Services Committee
Senate of Pennsylvania
Office of Senator Art Haywood

10 East Wing, Main Capitol Building
Harrisburg, Pennsylvania 17120-3004
717-787-1427 (P)
717-772-0572 (F)



Our Philadelphia District office is open, by appointment only, Monday – Thursday, from 9:00am – 5:00pm. Additionally, we will continue to serve you remotely by phone, Monday to Friday, from 9:00am – 5:00pm. Please call us at 215-242-8171 for assistance or visit our [Self-Service](#) page. You can reach our team online Tuesday - Thursday from 10:00am – 12:00pm & 2:00pm - 4:00pm via our **Live Chat tool** (real time text communications via computer or mobile phone with a District Representative) at www.senatorhaywood.com.



From: Fellin, Daniel <dfellin@pa.gov>
Sent: Monday, March 1, 2021 9:20 AM
To: Freeman, Clarissa <Clarissa.Freeman@pasenate.com>
Cc: Conrad, Laura <laurconrad@pa.gov>
Subject: Recovery House regulations for Sen. Haywood

■ EXTERNAL EMAIL ■

Attached please find Sen. Haywood's copy of the Department of Drug and Alcohol Programs' final-omitted regulations for the licensure of drug and alcohol recovery houses.

The merged file contains:

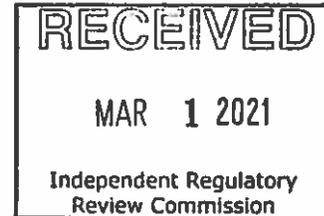
- A cover letter from Secretary Smith
- The Face Sheet for the regulations

Stephen Hoffman

From: Elliott, Amy M. <aelliott@attorneygeneral.gov>
Sent: Monday, March 1, 2021 9:31 AM
To: Rizzi, Alicia (GC)
Cc: Trotter, Carolyn; Lehr, Marisa (GC)
Subject: RE: [EXTERNAL] Final-Omitted DDAP Regulation 74-4

I am able to confirm receipt. Thanks, Amy

Amy M. Elliott
Chief Deputy Attorney General
Legal Review Section
717-783-6316
aelliott@attorneygeneral.gov



From: Rizzi, Alicia (GC) <arizzi@pa.gov>
Sent: Monday, March 1, 2021 9:27 AM
To: Elliott, Amy M. <aelliott@attorneygeneral.gov>
Cc: Trotter, Carolyn <ctrotter@attorneygeneral.gov>; Lehr, Marisa (GC) <malehr@pa.gov>
Subject: [EXTERNAL] Final-Omitted DDAP Regulation 74-4

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Attached please find the Department of Drug and Alcohol Program's final-omitted regulation #74-4 for your review.

Please provide an email response acknowledging your receipt of this regulation so that DDAP may provide proof of receipt to IRRC.

Thank you,

Alicia C. Rizzi | Transactions/Regulatory Coordinator
Governor's Office of General Counsel
Commonwealth of Pennsylvania
333 Market Street Tower, 17th Floor | Harrisburg, PA 17101
Phone: 717.787.9344 | Fax: 717.787-1788
arizzi@pa.gov | www.ogc.pa.gov

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