



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)~~ and adds Chapter 717 (relating to Standards for Drug and Alcohol Recovery House Licensure) 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-houses~~ 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 § 701.11 (Exceptions To This Part), 28 Pa. Code § 701.12 (Revocation of Exceptions), 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 adds 28 Pa. Code § 709717.131 – 71709.32154 (Subchapter L. Standards for Drug and Alcohol Recovery House Licensure).

Background

A drug and alcohol recovery houses is defined as “[h]ousing for individuals recovering from drug or alcohol addiction, which provides those individuals with a safe and supportive drug and alcohol-free environment that may include peer support and other recovery support services” in Section 2311-A of the Administrative Code of 1929 (71 P.S. § 613.11). 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.

Provisional data from the U.S. Centers for Disease Control and Prevention (CDC) report that over 81,000 U.S. drug overdose deaths occurred in the 12-month period ending in May 2020, the highest number of overdose deaths ever recorded in a 12-month period (<https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html>).

Pennsylvania ranks fifth for rate of age-adjusted overdose deaths in 2019, with 35.6 overdose deaths per 100,000 population (<https://www.cdc.gov/drugoverdose/data/statedeaths/drug-overdose-death-2019.html>). 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. The statutory and regulatory requirements for compliance are the same regardless of whether drug and alcohol recovery houses are licensed or certified. The Department chose to use the term "licensure" for its regulation of drug and alcohol recovery houses. The Department already licenses treatment facilities for individuals who have SUD. Although drug and alcohol recovery houses are not treatment facilities, the Department wants to maintain consistency in the processes for the application, inspection and approval of all the entities it regulates. In addition, there are private organizations such as National Association of Recovery Residences (NARR) and its affiliate, the Pennsylvania Association of Recovery

Residences (PARR), that certify drug and alcohol recovery houses for compliance with their standards. Several stakeholders have asked whether certification by NARR or PARR is sufficient to meet the regulatory requirements for licensure. While NARR, PARR, and other similar organizations provide valuable resources to their members, their standards do not meet all statutory or regulatory requirements for licensure. The Department's use of the term "licensure" will reduce this confusion between compliance with these regulations and other standards within the drug and alcohol recovery house community.

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

- Section 709717.44422(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 71709.1638 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 71709.1739(ba)(7) requires drug and alcohol recovery houses to have policies regarding criminal background checks for operators and employees.
- Section 71709.25447(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 7 ~~1709.30452~~ requires drug and alcohol recovery houses to have policies and procedures addressing the safety and protection of residents.
- Section 7 ~~1709.28450~~(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 7 ~~1709.28450~~(2) requires drug and alcohol recovery houses to have policies requiring abstinence from alcohol and illicit drugs.
- Section 7 ~~1709.24446~~ requires drug and alcohol recovery houses to have procedures regarding appropriate use and security of medication.
- Sections 7 ~~1709.30452~~(c) and 7 ~~1709.30452~~(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 7 ~~1709.25447~~(b)(1) 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 7 ~~1709.32454~~ provides the Department's policies and procedures for managing complaints.

- Section 71709.27449 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.

Applicants will submit policies and procedures as attachments to the online licensing application. Staff within the Department's Division of Licensing Operations, Bureau of Program Licensure will review and approve each applicant's policies and procedure that comply with regulatory requirements. During licensing inspections, staff within the Department's Recovery House Licensing Section, Bureau of Program Licensure will determine whether the drug and alcohol recovery house licensee, staff, and volunteers are following approved policies and procedures. Department staff will raise any questions or concerns relating to policies and procedures during the licensing or inspection processes. This process gives licensees the flexibility to set their own standards to meet the needs of their residents while the Department can review and oversee their implementation in order to protect the health and safety of Pennsylvanians seeking drug and alcohol recovery housing as part of their recovery journey.

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 § 71709.29451.

Section 2314-A(b) of the Administrative Code (71 P.S. § 613.14) states that, "A drug and alcohol recovery house in existence on the effective date of this section may be deemed

~~licensed or certified by the department after inspection and if the drug and alcohol recovery house provides documentation to the department within 180 days after the promulgation of regulations by the department that it is in compliance with those regulations.” Because “deemed licensure” applies only to those recovery houses that have been inspected, and because the Department would determine regulatory compliance, in part, based on that inspection, the Department does not anticipate that any drug and alcohol recovery houses will be able to take advantage of this provision unless they are currently licensed as a transitional living facility 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 currently receive funds from the Department.~~

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.

The final-omitted regulatory package was originally submitted to the Independent Regulatory Review Commission (IRRC) on March 1, 2021 and withdrawn and resubmitted on March 15, 2021 to include additional forms. In response to comments submitted to IRRC and the Department from the regulatory community and those involved in the regulatory review process, the Department withdrew the regulation on April 9, 2021 to thoroughly review and address these concerns.

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.

Ten commentators stated that the regulation should not be placed within Chapter 709 (relating to Standards for Licensure of Freestanding Treatment Facilities) because it could lead to discriminatory zoning.

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~~ may 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.

The Department does not want to create any confusion nor give the impression that recovery houses are treatment facilities. The Department has moved the regulation out of

Chapter 709 and into a new Chapter 717 (relating to Standards for Drug and Alcohol Recovery House Licensure). Because the Department is creating a new chapter, it is adding new Sections 717.4 – 717.5 and 717.7 – 717.13, relating to regulatory exceptions, the inspection and licensure process, and appeals. These new sections are substantially similar to existing Sections 709.4 – 709.5 and 709.12 – 709.18 that are applicable to freestanding drug and alcohol treatment facilities. The Department revised those existing sections in adding them to Chapter 717 to apply specifically to drug and alcohol recovery houses and for consistency with the *Pennsylvania Code and Bulletin Style Manual, Fifth Edition*.

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~~500 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 adding “drug and alcohol recovery house” to the definition of *License*.~~

~~_____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 moved the regulation out of Chapter 709, relating to “Standards for Licensure of Freestanding Treatment Facilities,” and into its own Chapter 717, relating to “Standards for Drug and Alcohol Recovery House Licensure,” because drug and alcohol recovery houses are not treatment facilities. Housing in a drug and alcohol recovery house is no longer listed as an Inpatient nonhospital activity. ~~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.~~

~~§ 701.11. Exceptions to this part.~~

~~_____ The Department is adding drug and alcohol recovery houses to list of entities that may seek regulatory exceptions under this part.~~

~~§ 701.12. Revocation of exceptions.~~

~~_____ The Department is adding drug and alcohol recovery houses to the list of entities that may have regulatory exceptions revoked under this part.~~

~~§ 71709.131. Scope.~~

The Department is adding this section to establish the scope for Chapter ~~709717~~, ~~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.

§ ~~71709.132~~. *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).

§ ~~71709.133~~. *Definitions.*

The Department is adding this section to define “license,” “licensee” and “volunteer” for the purposes of ~~Subchapter L~~ this chapter.

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 § ~~71709.133~~.

The only mention of “hours of operation” in the original draft regulation was in 28 Pa. Code § ~~71709.1840~~, 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 § ~~71709.8.13~~, ~~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.~~

§ 717.4. Exceptions.

~~_____The Department is adding this section to describe the process by which it may grant exceptions of extensions of time to this chapter because the existing process for treatment facilities will not apply to drug and alcohol recovery houses. The Department is updating the existing provisions in § 709.4 to apply to drug and alcohol recovery houses and for consistency with the *Pennsylvania Code and Bulletin Style Manual, Fifth Edition.*~~

§ 717.5. Revocation of exceptions.

~~_____The Department is adding this section to describe the process by which it may revoke an exception granted under this chapter because the existing process for treatment facilities will not apply to drug and alcohol recovery houses. The Department is updating the existing provisions in § 709.5 to apply to drug and alcohol recovery houses and for consistency with the *Pennsylvania Code and Bulletin Style Manual, Fifth Edition.*~~

§ ~~71709.6135~~. 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.

One commentator stated that all drug and alcohol recovery houses owned by a single operator should be licensed if an operator opts to pursue licensure for at least one of their houses in order to avoid confusion whether the house may accept public funding or referrals.

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 § 71709.6135, 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 § 71709.6135(a) and § 71709.6135(b) by stating that initial and renewed licenses must submit an application, policies and procedures, and application fee “for each facility drug and alcohol recovery house.”

The Department will not require a drug and alcohol recovery house operator to license all of their houses if they only want to license one or several. To avoid confusion about which houses may accept public funding and referrals, the Department will include street address locations in the registry it will maintain on its website under Section 2315-A of the Administrative Code of 1929 (71 P.S. § 613.15).

License renewal is annual, in accordance with Section 2314-A(a) of the Administrative Code of 1929 (71 P.S. § 613.14(a)).

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.

§ 717.7. Full licensure.

The Department is adding this section to describe the process by which the Department issues a license to a drug and alcohol recovery house because the existing process for treatment facilities will not apply to drug and alcohol recovery houses. The Department is updating the existing provisions in § 709.12 to apply to drug and alcohol recovery houses and for consistency with the *Pennsylvania Code and Bulletin Style Manual, Fifth Edition.*

§ 717.8. Provisional licensure.

The Department is adding this section to describe the process by which the Department issues a provisional license to a drug and alcohol recovery house because the existing process for treatment facilities will not apply to drug and alcohol recovery houses. The Department is updating the existing provisions in § 709.13 to apply to drug and alcohol recovery houses and for consistency with the *Pennsylvania Code and Bulletin Style Manual, Fifth Edition.*

§ 717.9. Restriction on license.

The Department is adding this section to establish the restrictions on the license and the situations in which the licensee shall notify the Department because the existing process for

treatment facilities will not apply to drug and alcohol recovery houses. The Department is updating the existing provisions in § 709.14 to apply to drug and alcohol recovery houses.;

§ 717.10. Right to enter and inspect.

The Department is adding this section to establish the Department's right to enter, visit, and inspect a drug and alcohol recovery house license or applying for a license because the existing process for treatment facilities will not apply to drug and alcohol recovery houses. The Department is updating the existing provisions in § 709.15 to apply to drug and alcohol recovery houses.

§ 717.11. Notification of deficiencies.

The Department is adding this section to describe the process by which the Department notifies the applicant or licensee of noncompliance with regulations because the existing process for treatment facilities will not apply to drug and alcohol recovery houses. The Department is updating the existing provisions in § 709.16 to apply to drug and alcohol recovery houses and for consistency with the *Pennsylvania Code and Bulletin Style Manual, Fifth Edition.*;

§ 717.12. Refusal or revocation of license.

The Department is adding this section to describe the reasons and process for refusal or revocation of a license because the existing process for treatment facilities will not apply to drug and alcohol recovery houses. The Department is updating the existing provisions in § 709.17 to apply to drug and alcohol recovery houses.;

§ 717.13. Hearings.

The Department is adding this section to describe the process for hearings because the existing process for treatment facilities will not apply to drug and alcohol recovery houses. The

Department is updating the existing provisions in § 709.18 to apply to drug and alcohol recovery houses and for consistency with the Pennsylvania Code and Bulletin Style Manual, Fifth Edition.

§ 71709.1436. Fines.

The Department is adding this section to explain the Department's policy for imposing fines on the operators of 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).

This section will become effective 180 days after publication of the final regulation in order to avoid disruption of services for drug and alcohol recovery houses that currently receive funds and referrals from public sources. This time period should allow currently operating drug and alcohol recovery houses the opportunity to submit applications and obtain licenses. Because the Department is applying this effective date to all drug and alcohol recovery houses, it is not exercising its discretion under Section 2314-A(b) of the Administrative Code (71 P.S. § 613.14(b)) to deem existing drug and alcohol recovery houses that have previously been inspected and that document compliance with these regulations within 180 days after promulgation of these regulations as licensed. Instead, all drug and recovery houses must submit applications and obtain licenses in compliance with these regulations within 180 days.

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.

§ ~~71709.1537~~. *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 § 7 ~~1709.1537~~. 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.

§ 7 ~~1709.1638~~. *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 a ~~an annual~~ financial audit of the drug and alcohol recovery house's operations every two years.

The Department received 162 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 and public referrals should undergo a regular audit to ensure that finances are being managed appropriately.

In response to comments about the cost associated with an annual audit, the Department changed the regulation to require an audit of the drug and alcohol recovery house's operations every two years. It is the licensee's decision when the audit will occur during the year. The Department does not want to extend this requirement beyond every two years so that accounting errors involving resident and public funds are discovered and corrected in a timely manner.

§ 71709.1739. *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.

[Pennsylvania courts have held that automatic disqualification of an applicant based solely on a past criminal conviction is unconstitutional. See, e.g., Nixon v. Dep't of Pub. Welfare, 839 A.2d 277 \(Pa. 2003\); Warren County Human Servs. v. State Civil Serv. Comm'n \(Roberts\), 844 A.2d 70 \(Pa. Commw. 2004\); Peake v. Com., 132 A.3d 506 \(Pa. Commw. 2015\).](#) The Department

gives discretion to each licensee to develop a policy regarding the results of a background check. Licensees should consider all factors that an applicant presents, including past criminal convictions and steps at rehabilitation, and make decisions about the applicant's suitability for the specific position, consistent with the Criminal History Record Information Act, 18 Pa. C.S. § 9125.

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 § 7~~1709.1739~~.
§ 7~~1709.1840~~. *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~~90 days.

§ 71709.19141. *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~~ resident 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.

§ 71709.20142. *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 § ~~71709.20142~~ and now provides additional detail in § ~~71709.22144~~(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.”

§ ~~71709.21143~~. *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.

§ ~~71709.22144~~. *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 § [71709.22144](#)(b)(2)(i). If the licensee sets specific rules, these may be part of the resident intake document signed within 24 hours of arrival.

§ [71709.23145](#). *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. [A licensee’s decision to end residency should be based on policies and procedures pursuant to § 717.22\(a\)\(3\).](#)

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 § [71709.23145](#)(a) to require that a notice of ending residency “include the reason and a timeframe.”

§ [71709.24146](#). *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 § 71709.19(a)(6)41, “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 included d 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.~~ To eliminate confusion, the Department removed the requirement that drug and alcohol recovery houses develop and implement policies and procedures for tracking medication.

§ 71709.25147. *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 § [71709.25447](#)(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.”

§ [71709.26448](#). *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.

§ [71709.27449](#). *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.~~ The Department has clarified this requirement to say, "The licensee shall develop and implement written policies and procedures that specify the circumstances, including the resident's hospitalization or death, for notifying the resident's emergency contact."

§ 71709.28150. 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. The drug and alcohol recovery house should develop policies and procedures that support attendance and participation in treatment and compliance with any clinical treatment plans and recommendations during residency.

§ 71709.29151. 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.

§ 71709.30152. *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-Fourteen~~ 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.

Commentators who contacted the Department after the initial submission of the regulation stated that it would prohibit common activities, such as residents using laundry facilities in a home's basement.

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

Response

The Department understands that fire ~~escape-exit~~ 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 exists on every floor “to which the residents have access.”~~The regulation initially submitted required a minimum of two exists on every floor to which the residents have access. In response to comments received after the regulation was initially submitted, the Department changed the regulation to require a

minimum of two exits on every floor where there is a resident bedroom. The Department also changed the regulation to require that fire exit equipment must be securely affixed to the house. Retractable or drop-down fire ladders, fire escapes, or other types of exits that are attached to the house in at least one point will meet this requirement.

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.

§ ~~71709.31153~~. *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 § 71709.31453~~(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.

§ ~~71709.32154~~. *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. The Department will accept and investigate anonymous complaints. The Department will honor requests by complainants who provide their names and contact information to remain anonymous to the extent it is able. The Department may have to provide that information if it is required by law, such as in response to a subpoena or as ordered by a court. Any complaints that allege a direct threat to the health or safety of a resident will be investigated by the Department within two business days.

~~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 every two years. 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 personnel costs will be covered by State funds, as well as a Federal block 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 every two years. 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~~drug and alcohol recovery house licensing 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, with the exception of Section 717.14, that shall take effect 180 days after 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 7174, are amended by amending § 701.1, § 7014.113, § 7014.12, ~~§ 709 in Subchapter G, § 711 in Subchapter F,~~ and adopting § 71709.131 – 71709.32154 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*, with the exception of Section 71709.1436, that shall take effect 180 days after publication in the *Pennsylvania Bulletin*.

JENNIFER S. SMITH,

Secretary