

<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 REVIEW COMMISSION</p> <p>OCT - 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>		
		IRRC Number: 3294
<p>(3) PA Code Cite:</p> <p>28 Pa. Code Chapter 717 (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> <p><input type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> Final Regulation</p> <p><input checked="" type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<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>		

State law mandates this regulation; see Section 2311-A of the Administrative Code of 1929 (71 P.S. § 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.

(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; fiscal management; 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

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>). 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 houses 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. § 290cc-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

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>). 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 houses 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; fiscal management; 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 housing in Pennsylvania. Consumers may find themselves more willing to engage in housing in a licensed 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.

No, the regulation will not affect any other regulations of the Department or of other state agencies.

(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.

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, and resubmitted on June 14, 2021.

The regulation was considered at the July 15, 2021 public IRRC hearing and disapproved by the Commission. The Department received IRRC's disapproval order on August 24, 2021.

(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 600 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 600 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 house.

Benefits

Residents of a licensed drug and alcohol recovery house will have the benefits associated with a higher standard of safety. Recovery houses licensed by DDAP must adhere to rigorous staff training requirements; standards related to the physical plant, resident safety and ethics; fiscal management; 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. Improved quality and safety requirements to recovery supports, such as 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 drug and alcohol recovery house to the community and to treatment providers, distinguishing themselves to customers as a safe, higher quality option. 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 per recovery house are dependent on current status of the residence, size of the residence, and number of clients served. The estimated cost to the regulated community assumes that most of the physical plant and equipment costs (such as exterior lights, fire-retardant mattresses, bedding, towels, kitchen appliances, secured railings, smoke detectors, carbon monoxide detectors, fire extinguishers, and ADA compliance) have already been incurred by already-existing recovery houses in the absence of licensure. Costs attributable to the regulation include medication storage, overdose reversal medication, record storage, and exit signs, which are not expected to exceed \$500 per recovery house.

Additional administrative costs will include staff and volunteer training; unusual incident reporting; maintaining an itemized record and documentation of all revenues and expenditures; annually preparing a balance sheet that shows assets, liabilities, and owners' equity for the drug and alcohol recovery house; and development of policies and procedures. Some of these costs will be one-time (development of policies and procedures, staff and volunteer training) while others will be ongoing (house manager training, unusual incident reporting, accounting documentation). Training costs will also be dependent upon the number of staff employed and staff turnover rates. Assuming a house manager salary of \$35,000 per year and staff salary of \$28,000 per year, costs due to time spent in training are not expected to exceed \$100 per person. Furthermore, maintaining itemized revenue and expenditure documentation is estimated to take half-hour daily as part of the staff person's regular job duties; assuming a salary of \$28,000 per year, annual costs related to maintaining accounting documentation are estimated to be \$2,500 per year. In general, total administrative costs are not expected to exceed \$3,500 annually.

Depending on the layout of the house, a recovery house operator may need to purchase fire exit equipment to install above the ground floor in accordance with § 717.30(b)(2). An acceptable fire ladder retails for roughly \$100 at major hardware stores. A recovery house that currently matches

requirements for licensure without needing additional modification will incur a minimum annual cost of \$250 (application or renewal fee).

(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 \$150,000 (or \$250 licensure fee multiplied by 600 estimated recovery houses). Remaining personnel costs will be covered by funds awarded to DDAP under the federal Substance Abuse Prevention and Treatment Block Grant (42 U.S.C.A. §§ 300x-21 – 300x-35).

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

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 ending or completion of residency. Furthermore, the regulated community must maintain a resident roster that identifies the date of each resident's beginning and end or 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.**

The following forms are attached:

- Drug and Alcohol Recovery House Licensing Application
- Recovery House Licensing Checklist, which specifies the content of many of the documents for recovery houses to create and maintain
- Recovery House Floor Plan Checklist
- Ownership and Business Management Form
- Recovery House Renewal Form
- Unusual Incident Reporting Form – Non-Narcotic Treatment Program
- Recovery House Provisional License Form
- Notice of Deficiencies – Deficiency Report and Plan of Correction

The following descriptions of other documents for which DDAP will not issue a specific form are attached:

- Contents of Recovery House Manager Information Form for Licensing Checklist
- Contents of Acknowledgement that Residents Have Received Notice of Rights Under 28 Pa. Code § 717.19(b)
- Contents of Consent to Residency Form Under 28 Pa. Code § 717.120(a)(2)
- Contents of Resident Roster Under 28 Pa. Code § 717.121(a)
- Contents of Intake Documentation Under 28 Pa. Code § 717.22(b)
- Contents of Notification of Decision to End Residency Under 28 Pa. Code § 717.23(a)
- Contents of Record of Financial Transactions When Licensee Assists Resident with Finances, Budgeting and Spending Under 28 Pa. Code § 717.25(d)(1)
- Contents of Written Agreement to Manage Resident's Finances Under 28 Pa. Code § 717.25(e)
- Contents of Documentation of Monthly Inspections and Tests of Carbon Monoxide Detectors Under 28 Pa. Code § 717.30
- Contents of Documentation of Unusual Incident Under 28 Pa. Code § 717.31(b)(1)

(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. The costs to the regulated community below reflect the annual licensure or renewal fee (\$250) and estimated administrative costs related to training, unusual incident reporting, and accounting documentation (\$3,500) for an estimated 600 recovery houses. Additional first-year expenses reflected under "Current FY Year" include \$500 for medication storage, overdose reversal medication, record storage, and exit signs, as well as an additional \$100 estimated to install an exit above the ground level, if needed.

	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	>\$2.6 million	>\$2.2milli on	>2.2 million	>\$2.2milli on	>\$2.2 million	>\$2.2 million
Local Government						
State Government	\$341,411	\$323,411	\$323,411	\$323,411	\$323,411	\$323,411
Total Costs	>\$2.9 million	>\$2.5milli on	>\$2.5 million	>\$2.5milli on	>\$2.5 million	>\$2.5millio n
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
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Drug and Alcohol Recovery House Licensure	<p>New program. Expenditure history does not exist.</p>
<p>(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:</p> <p>(a) An identification and estimate of the number of small businesses subject to the regulation.</p> <p>Regulated entities are almost exclusively small businesses. Please see #16 for information on identification and estimate.</p> <p>(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.</p> <p>Regulated entities are almost exclusively small businesses. Please see #19 and #22 for statements on reporting, recordkeeping, and other administrative costs.</p> <p>(c) A statement of probable effect on impacted small businesses.</p> <p>Regulated entities are almost exclusively small businesses. Please see #17, #19, #22 for probable effects on small businesses.</p> <p>(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.</p> <p>Less intrusive or less costly alternative methods either conflict with statutory requirements or present a detriment to life, health, and safety.</p>	
<p>(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.</p> <p>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.</p>	
<p>(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.</p> <p>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.</p> <p>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.</p>	

(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>October 2021</u> |
| D. The expected effective date of the final-form regulation: | <u>October 2021</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>April 2022</u> |

F. The expected date by which required permits, licenses or other approvals must be obtained:

April 2022

(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.

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

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
- ☐ 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 § 717.17. 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 before engaging in work 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 § 717.18. 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 § 717.19. 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 a resident 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 § 717.22. Beginning of Residency

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

1. Residency criteria.
2. Requirements for completion of residency by meeting a resident's treatment, personal or financial goals or social-emotional or other needs.
3. Criteria for ending residency before completion, including a timeline.

In what document is this information found? _____

Page number(s): _____

28 Pa. Code § 717.24. 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 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 § 717.25. (a) Financial Transactions.

- ☐ The licensee shall develop and implement written policies and procedures to maintain a complete record of collection of fees, payments and deposits between the licensee, the drug and alcohol recovery house or its employees and the resident or on behalf of the resident in accordance with standard accounting practices. 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 § 717.25. (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. 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.

In what document is this information found? _____

Page number(s): _____

RECOVERY HOUSE LICENSING CHECKLIST

28 Pa. Code § 717.26. 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 § 717.27. Notification to Family Member or Emergency Contact

- ☐ The licensee shall develop and implement written policies and procedures that specify the methods and circumstances, including the resident's hospitalization or death, for notifying the resident's emergency contact with the resident's consent.

In what document is this information found? _____

Page number(s): _____

28 Pa. Code § 717.28. 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 § 717.30(a). 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, staff, and volunteers to a safe location.
 2. Assignments of staff and volunteers 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 § 717.31(a). Unusual Incidents

- ☐ 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 on or off the premises.
 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 § 717.31. (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

RECOVERY HOUSE FLOOR PLAN CHECKLIST

ALL ITEMS ON THIS CHECK LIST “**MUST**” BE A PART OF THE FLOOR PLAN SUBMITTED. BLUEPRINTS OR PROFESSIONAL DRAWINGS ARE NOT REQUIRED.

- ☐ Locations of all exits
- ☐ Location of smoke alarms and/or detectors
- ☐ Location of fire extinguishers
- ☐ Location of smoking area (if applicable)
- ☐ Bedrooms diagram (if applicable) *must* include the following information: *(Residential)*
 - ☐ Actual measurements and computation of square footage
 - ☐ Number and type of beds (single or bunk) in each room
 - ☐ Location of windows and other natural light source
- ☐ Bathroom diagrams must include the following information: *(Residential)*
 - ☐ Number of:
 - ☐ Sinks
 - ☐ Commodes
 - ☐ Urinals
 - ☐ Showers and or tubs



Recovery House Provisional License Form

Division of Program Licensure

***Informational only. This process is completed online via an electronic process.**

Section I: Facility Identification

Date Prepared:	Facility Number:	File Number:
County:	Region:	
Facility Name:		
Physical Address:		
Mailing Address:		
The following two items are to be completed only when a relocation occurs.		
Relocation Address:		
Relocation Mailing Address:		
Director (including prefix, first name, middle initial, last name, and suffix):		
Facility Telephone Number (including area code, number, and extension):		Extension
Facility Fax Number:		

Section II: License Activity

Service	Treatment Type	Recommended Length of TX	Current No. of Clients	Client Capacity	Client to Counselor Ratio	Cost	Add/Delete Date
						\$	
						\$	
						\$	
						\$	
						\$	
						\$	

Section III: Emergency Information

Emergency contact person:	
Emergency telephone number and extension: (can't be the facility phone number)	Extension
Electronic mail address:	

Section IV: Signatures

I certify that the information on this form is complete and accurate to the best of my knowledge.

Project/Facility Director Date

Program Representative/Licensing Specialist Date

Program Representative/Licensing Specialist Supervisor Date

Division Director Date



Recovery House Renewal Form

Division of Program Licensure

*Informational only. The Renewal is completed online via an electronic process.

Section I: Facility Identification

Date Prepared:	Facility Number:	File Number:
County:	Region:	
Facility Name:		
Physical Address:		
Mailing Address:		
The following two items are to be completed only when a relocation occurs.		
Relocation Address:		
Relocation Mailing Address:		
Director (including prefix, first name, middle initial, last name, and suffix):		
Facility Telephone Number (including area code, number, and extension):		Extension
Facility Fax Number:		

Section II: Facility Characteristics

Date Opened: _____	Operation Type: Non-Profit <input type="checkbox"/> Profit <input type="checkbox"/>	L&I Approval: Yes <input type="checkbox"/> No <input type="checkbox"/>
Date Closed: _____		
Accreditations: JCAHO <input type="checkbox"/>	CARF <input type="checkbox"/>	COA <input type="checkbox"/>
Fiscal Class:		
Both Fee for Service and Program Funded through SCA Contracts		<input type="checkbox"/>
Fee for Service through SCA Contract		<input type="checkbox"/>
Other (Private facility or funded directly by the Federal government)		<input type="checkbox"/>
Program Funded through SCA Contract		<input type="checkbox"/>
SCA Functional Unit		<input type="checkbox"/>
Demographic Population (Description, number of males, number of females): (enter # served and also check boxes)		
	<u>Male</u>	<u>Female</u>
Adolescents <input type="checkbox"/>	_____	_____
Pregnant Women <input type="checkbox"/>	_____	_____
	<u>Male</u>	<u>Female</u>
Adults <input type="checkbox"/>	_____	_____
Women with Children <input type="checkbox"/>	_____	_____
Bi-Lingual Counselors (language and number):		
Chinese <input type="checkbox"/>	_____	Japanese <input type="checkbox"/>
French <input type="checkbox"/>	_____	Korean <input type="checkbox"/>
Italian <input type="checkbox"/>	_____	Other <input type="checkbox"/>
	<u>Male</u>	<u>Female</u>
Sign Language <input type="checkbox"/>	_____	
Spanish <input type="checkbox"/>	_____	
Vietnamese <input type="checkbox"/>	_____	
Ethnic Populations:		
African American <input type="checkbox"/>	_____	Mexican American <input type="checkbox"/>
Asian or Pacific Islander <input type="checkbox"/>	_____	Native American <input type="checkbox"/>
Caucasian <input type="checkbox"/>	_____	Puerto Rican <input type="checkbox"/>
Cuban American <input type="checkbox"/>	_____	Other <input type="checkbox"/>

Section III: Governing Body Information

Governing Body Name:
Governing Body Address:
Governing Body Director:
Telephone Number (including area code, number, and extension):
Extension

Section IV: License Activity

Service	Treatment Type	Recommended Length of TX	Current No. of Clients	Client Capacity	Client to Counselor Ratio	Cost	Add/Delete Date
						\$	
						\$	
						\$	
						\$	
						\$	
						\$	

Section V: Emergency Information

Emergency contact person:	
Emergency telephone number and extension: (can't be the facility phone number)	Extension
Electronic mail address:	

Section VI: Signatures

I certify that the information on this form is complete and accurate to the best of my knowledge.

Project/Facility Director Date

Program Representative/Licensing Specialist Date

Program Representative/Licensing Specialist Supervisor Date

Division Director Date

Ownership and Business Management Form

FACILITY NAME: _____

1. Identify the persons and entities with 5% or greater direct or indirect ownership or controlling interest in the Applicant. *(If additional space is needed to add individuals, continue a separate sheet of paper and clearly label).* Please be sure that the address listed on the form matches the address on the Applicant's State Identification Card.

NAME: _____

ADDRESS: _____

TELEPHONE: _____

- _____
2. List the name and address of the individual who is responsible for the overall business direction of the Application. *(If additional space is needed, continue on a separate sheet of paper and clearly label).* (Licensee, Officer, or other Representative)

NAME: _____

ADDRESS: _____

***Resume must be submitted.

☐ Resume Submitted

- _____
3. List the name and address of the individual who is responsible for the overall management and operation of the Recovery House. *(If additional space is needed, continue on a separate sheet of paper and clearly label).* (Recovery House Manager)

NAME: _____

ADDRESS: _____

***Resume must be submitted.

☐ Resume Submitted

Ownership and Business Management Form

4. Have you ever applied to DDAP to open a facility or drug and alcohol recovery house before? If so, what the name listed on the application? *(If additional space is needed, continue on a separate sheet of paper and clearly label).*

☐ YES (explanation below)

☐ NO

NAME OF FACILITY ON APPLICATION: _____

WHEN YOU APPLIED: _____

OUTCOME: _____

5. Names, addresses, and type(s) or facilities currently or previously owned, managed, or operated by Applicant(s): *(If additional space is needed, continue on a separate sheet of paper and clearly label).*

APPLICANT NAME: _____

FACILITY NAME: _____

FACILITY ADDRESS: _____

FACILITY TYPE: _____

6. Description of any adverse action taken by any state or federal agency against any of the facilities identified in #5 and any documentation regarding the action taken and its resolution. *(If additional space is needed, continue on a separate sheet of paper and clearly label).*

☐ YES (explanation below)

☐ NO

Ownership and Business Management Form

7. Have any of the facilities or individual(s) identified in this document been subject to **CRIMINAL CHARGES**? *(If additional space is needed, continue on a separate sheet of paper and clearly label).*

☐ YES (If yes, provide information below)

☐ NO (If no, skip to #8)

Facility or individual name: _____

Nature of Crime: _____

Date(s): _____

If yes, provide documentation regarding the action taken and its resolution. (Must attach official court documents)

8. Have any of the facilities or individual(s) identified in this document been subject to **CIVIL FRAUD CHARGES**? *(If additional space is needed to add individuals, continue on a separate sheet of paper and clearly label).*

☐ YES (If yes, provide information below)

☐ NO (If no, skip to #9)

Facility or individual name: _____

Nature of Crime: _____

Date(s): _____

If yes, provide documentation regarding the action taken and its resolution. (Must attach official court documents)

9. Have any of the facilities or individual(s) identified in this document been subject to **MEDICARE AND/OR MEDICAID FRAUD AND/OR ABUSE**? *(If additional space is needed to add individuals, continue on a separate sheet of paper and clearly label).*

☐ YES (If yes, provide information below)

☐ NO (If no, skip to #10)

Facility or individual name: _____

Nature of Crime: _____

Date(s): _____

If yes, provide documentation regarding the action taken and its resolution. (Must attach official court documents)

Ownership and Business Management Form

- 10. Have any of the facilities or individual(s) identified in this document been ordered to pay a civil monetary penalty? (If additional space is needed to add individuals, continue on a separate sheet of paper and clearly label).**

☐ YES (If yes, provide information below) ☐ NO

Facility or individual name: _____

Nature of Crime: _____ **Date(s):** _____

If yes, provide documentation regarding the action taken and its resolution. (Must attach official court documents)

- 11. Is there any ongoing fraud and abuse investigations involving any facility or individual(s) previously identified in this document? (If additional space is needed, continue on a separate sheet of paper and clearly label).**

☐ YES (If yes, provide information below) ☐ NO

Facility or individual name: _____

Nature of Crime: _____ **Date(s):** _____

If yes, provide documentation regarding the action taken and its resolution. (Must attach official court documents)

APPLICANT PRINT NAME

APPLICANT SIGNATURE (no electronic signature)

DATE (no electronic date)

**UNUSUAL INCIDENT REPORTING FORM
NON-NARCOTIC TREATMENT PROGRAM**

Facility Name: _____ **Facility #** _____

Contact Person: _____ **Phone #** _____

Facility Address: _____

Date of Incident _____ **Time of Incident:** _____

Nature of Incident : Choose an item.

Client(s) Involved (use client I.D. #): _____

Employee(s) Involved: _____

Witnesses (use client I.D. #, if applicable): _____

Detailed description of the incident: (Must include the location of the incident and if applicable, provide the client(s) I.D. # sex, age, and admission date of client(s), where applicable).

Staff Response/Action(s) Taken by Facility:

**UNUSUAL INCIDENT REPORTING FORM
NON-NTP**

Detailed description of injuries sustained by staff and/or client(s) and any medical attention provided:

**Staff completing
form:** _____

Title: _____

Signature

Date

**PLEASE SEND UNUSUAL INCIDENT REPORT AND ANY RELATED CORRESPONDENCE TO:
EMAIL: RA-DAAPI_DIVISION@PA.GOV | FAX: (717) 265-8308**

DRUG AND ALCOHOL LICENSURE

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: XXXXXXX		X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		X3) DATE SURVEY COMPLETED XX/XX/XXXX	
NAME OF PROVIDER OR SUPPLIER Facility Name				STREET ADDRESS, CITY, STATE, ZIP CODE Facility Address			
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)			ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)		(X5) COMPLETE DATE

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

**CONTENTS OF RECOVERY HOUSE MANAGER INFORMATION FORM
FOR LICENSING CHECKLIST**

--Name of Recovery House Manager.

--Date of designation as Recovery House Manager.

--Statement that:

--The licensee will notify the Department within 30 days of a change in the Recovery House Manager.

--The Recovery House Manager is responsible for the management of the recovery house, staff and volunteers

--The Recovery House Manager will complete 6 hours of training within 6 months of designation and annually thereafter.

--Signature of Recovery House Manager.

--Date.

**CONTENTS OF ACKNOWLEDGEMENT THAT RESIDENTS HAVE
RECEIVED NOTICE OF RIGHTS UNDER 28 Pa. Code § 717.19(b)**

--Name of resident.

--Statement that resident has received notice of the following rights under 28 Pa. Code § 717.19(a):

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

--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.

--Residents have the right to inspect their own records.

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

--Residents have the right to submit a rebuttal to information in their records.

--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.

--Signature of resident.

--Date.

**CONTENTS OF CONSENT TO RESIDIENCY FORM
UNDER 28 Pa. Code § 717.20(a)(2)**

--Name of resident.

--Statement that resident wishes to reside in the recovery house.

--Signature of resident.

--Date.

CONTENTS OF RESIDENT ROSTER UNDER 28 Pa. Code § 717.21(a)

--Name of each resident for at least the prior four years.

--Date of each resident's beginning and ending or completion of residency.

**CONTENTS OF DOCUMENTATION
UNDER 28 Pa. Code § 717.22(b)**

- Disclosure to the resident of criteria for beginning and ending residency.
- Resident orientation to the drug and alcohol recovery house which must include:
 - Drug and alcohol recovery house rules, including a method to record residents' expected return time to the drug and alcohol recovery house.
 - Fee schedule including the lease agreement.
 - Supports provided by the drug and alcohol recovery house, as well as referrals to other essential services as needed.
 - Financial policies and procedures.
 - The location of posted emergency procedures and contact information for the house manager and the Department.
 - Medication control and self-administration policies.
- Basic personal data including:
 - Name.
 - Birth date.
 - Demographic information.
 - 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.
 - Drug and alcohol history.
 - Medical contact information.

--Emergency contact.

--Consent to residency.

--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.

**CONTENTS OF NOTIFICATION OF DECISION TO END RESIDENCY
UNDER 28 Pa. Code § 717.23(a)**

--Date of notification.

--Name of resident.

--Reason for ending residency.

--Timeframe for ending residency.

--Statement that the resident shall have the opportunity to request the licensee to reconsider the decision to end residency.

**CONTENTS OF RECORD OF FINANCIAL TRANSACTIONS WHEN
LICENSEE ASSISTS RESIDENT WITH FINANCES, BUDGETING AND
SPENDING UNDER 28 Pa. Code § 717.25(d)(1)**

--Date of each transaction.

--Amount of each deposit.

--Amount of each withdrawal.

--Current balance.

**CONTENTS OF WRITTEN AGREEMENT TO MANAGE RESIDENT'S
FINANCES UNDER 28 Pa. Code § 717.25(e)**

- Signature of licensee.
- Signature of resident.
- The financial assistance provided by the licensee.
- The right of the resident to at least 30 days advance notice, in writing, of the licensee's request to change the agreement.
- The right of the resident to rescind the agreement in writing.

CONTENTS OF DOCUMENTATION OF MONTHLY INSPECTIONS
AND TESTS OF CARBON MONOXIDE DETECTORS UNDER 28 Pa.
Code § 717.30

--Name of person conducting test.

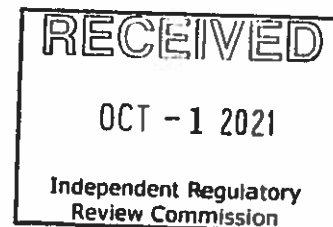
--Date of test.

**CONTENTS OF DOCUMENTATION OF UNUSUAL INCIDENT
UNDER 28 Pa. Code § 717.31(b)(1)**

- Date of the incident.**
- Description of the incident.**
- Direct and indirect causes of the incident.**
- Plan of correction, when indicated.**

CDL-1

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



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 hereby 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. 74-4</p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Jennifer S. Smith</u></p> <p>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>September 28, 2021 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 717 (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) 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 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 adds 28 Pa. Code § 717.1 – 717.33 (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. 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 717.22(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 717.16 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 717.17(b)(7) requires drug and alcohol recovery houses to have policies regarding criminal background checks for operators and employees.

- Section 717.25(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 717.30 requires drug and alcohol recovery houses to have policies and procedures addressing the safety and protection of residents.
- Section 717.28(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 717.28(2) requires drug and alcohol recovery houses to have policies requiring abstinence from alcohol and illicit drugs.
- Section 717.24 requires drug and alcohol recovery houses to have procedures regarding appropriate use and security of medication.
- Sections 717.30(c) and 717.30(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 717.25(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 717.32 provides the Department's policies and procedures for managing complaints.
- Section 717.27 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 procedures 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 § 717.29.

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, and resubmitted on June 14, 2021. IRRC considered and disapproved the regulation at the July 15, 2021 public hearing. On August 24, 2021, the Department received IRRC's disapproval order which cited concerns regarding statutory authority; possible conflict with statute; consistency with the intent of the General Assembly; economic and fiscal impacts of the regulation; protection of the public health, safety, and welfare; clarity and lack of ambiguity; reasonableness; implementation procedures and timetable for compliance; and compliance with the provisions in the Regulatory Review Act.

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 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. 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.

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 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. Furthermore, since the original draft of the regulation was distributed to stakeholders in May 2019, the Department has significantly reduced costs by removing requirements for fire escapes and annual financial audits.

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). Housing in a drug and alcohol recovery house is no longer listed as an

Inpatient nonhospital activity. 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 600 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.

§ 717.1. Scope.

The Department is adding this section to establish the scope for Chapter 717, Standards for Drug and Alcohol Recovery House Licensure. This includes scope standards and procedures for issuance of a drug and alcohol recovery house license.

§ 717.2. 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).

§ 717.3. Definitions.

The Department is adding this section to provide definitions for the purposes of this chapter. The first version circulated for stakeholder comments contained definitions of "license" and "licensee."

Four original commentators asked for a definition of "volunteer."

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

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

IRRC suggested adding definitions of "full license," "illicit drug," and "provisional license."

Response

The Department has added definitions of "full license," "illicit," "drug," and "provisional license" to this section in response to IRRC's recommendations. The Department also added a definition of "drug and alcohol recovery house" to this section because it removed the definition from § 701.1. The Department also added a definition of "volunteer."

The only mention of "hours of operation" in the original draft regulation was in 28 Pa. Code § 717.18, 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 regulation under 28 Pa. Code § 717.8.

§ 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*. In response to IRRC's concerns about ambiguity, the Department removed the amendment to the similar provision in § 701.11.

§ 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*. In response to IRRC's concerns about ambiguity, the Department removed the amendment to the similar provision in § 701.12.

§ 717.6. Application and renewal.

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 § 717.6, 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 § 717.6(a) and § 717.6(b) by stating that initial and renewed licenses must submit an application, policies and procedures, and application fee “for each 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).

Renewal of a full license 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 an occupancy-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*. The full license shall expire one year following the date it is issued.

§ 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*. The Department will assess a fee of \$250 for each issuance of a provisional license, and will issue a full license upon compliance with § 717.8 and receipt of the \$250 renewal fee.

§ 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*. After an inspection, the Department will discuss all deficiencies with the applicant or licensee during an exit interview, followed by written notice of deficiencies via a follow-up e-mail. The applicant or licensee has 15 working days to submit a plan to correct noncompliance. The Department will renew a license upon approving a plan of correction. The Department will issue a license to an applicant once it has verified that the applicant has corrected all noncompliance. The Department will use a method of verification appropriate to the deficiency, such as an additional inspection or submission of photographs or documentation to show that the deficiency has been corrected.

§ 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*.

§ 717.14. 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.

§ 717.15. 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 § 717.15. 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.

§ 717.16. *Fiscal management.*

The Department is adding this section to specify the licensee's requirements to develop and implement policies and procedures for management of all funds received and expended by the drug and alcohol recovery house.

The Department received 16 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)). In the regulation submitted to IRRC in June 2021, the Department had required an annual financial audit to ensure that Pennsylvania's most vulnerable populations were protected from financial exploitation, and that a licensee receiving State or Federal funds and public referrals was appropriately managing their finances. 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. In IRRC's disapproval order to the Department, however, the Commission expressed continued concern that a biennial audit imposes a significant cost, and is not within the Department's statutory authority.

In response, the Department revised Section 717.16 to remove the requirement for an audit. Instead, the Department will require drug and alcohol recovery houses to maintain itemized records and documentation of revenues and expenditures in accordance with the statutory requirement that the regulations include policies and procedures

for management of all funds in accordance with standard accounting practices, including funds received from or managed on behalf of residents of the drug and alcohol recovery house (71 P.S. § 613.13(2)). In the event of a complaint about fiscal management from residents or members of the public, the Department will pursue further investigation into the documentation.

§ 717.17. 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 § 717.17.

§ 717.18. *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 90 days.

§ 717.19. 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 a 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.

§ 717.20. 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 beginning of residency.

The Department has deleted the mention of a “medical and drug or alcohol history” in § 71720 and now provides additional detail in § 717.22(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.”

§ 717.21. 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 the date of each resident’s beginning and end of residency or completion of residency by meeting a resident’s treatment, personal or financial goals or social-emotional or other needs. 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 ending or completion of residency.

§ 717.22. Beginning of residency.

The Department is adding this section to specify policy and procedure requirements for beginning of residency.

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 process of beginning residency, residents must undergo orientation to “drug and alcohol recovery house rules” under § 717.22(b)(2)(i). If the licensee sets specific rules, these may be part of the resident document signed within 24 hours of arrival.

§ 717.23. 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 criteria pursuant to § 717.22(a)(3). A resident may also decide to end their residency without providing a reason to the licensee.

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 § 717.23(a) to require that a notice of ending residency “include the reason and a timeframe.”

§ 717.24. 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 § 717.19(a)(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.”

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 both “self-administration and drug and alcohol recovery house tracking of medication for residents who take medication.” To eliminate confusion, the Department removed the requirement that drug

and alcohol recovery houses develop and implement policies and procedures for tracking medication.

§ 717.25. 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 § 717.25(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.”

§ 717.26. 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.

§ 717.27. 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. 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." The Department also requires the licensee to attempt to notify the resident's emergency contact when the resident decides to end residency or does not return at the expected time in accordance with Justin's Law (71 P.S. § 613.19).

§ 717.28. 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.

§ 717.29. Physical plant standards.

The Department is adding this section to describe physical plant requirements for drug and alcohol recovery house licensure including compliance with 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 the maximum occupancy 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.

§ 717.30. 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.

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.

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

Response

The Department understands that fire 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. The regulation initially submitted required a minimum of two exits 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.

§ 717.31. 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.

IRRC asked which contagious diseases must be reported to the CDC and whether the Department will require reporting under the Disease Prevention and Control Law of 1955 (35 P.S. §§ 521.1 - 521.21).

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 § 717.31(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.

In response to IRRC's comments, the Department added subsection 717.31(d), which requires reporting to other agencies as required by applicable law, including the Disease Prevention and Control Law of 1955. The diseases that must be reported to the CDC are listed on the CDC website (<https://ndc.services.cdc.gov/>). The Department will provide notice to licensees if it learns that they must access that list of reportable diseases elsewhere.

§ 717.32. 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.

§ 717.33. Drug and alcohol recovery house registry.

The Department is adding this section to describe how the Department will create and maintain its registry of licensed drug and alcohol recovery houses. As required by Section 2315-A of the Administrative Code of 1929 (71 P.S. § 613.15), the registry shall be updated annually, though the Department will update more frequently, including timely removal of drug and alcohol recovery houses with revoked licenses. The public will be able to view the name, address, contact information, maximum occupancy, licensure status, and any other information the Department determines is in the public interest. If an entity operates more than one drug and alcohol recovery license but does not license all of them, the registry will clearly identify licensed houses.

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 600 individuals have stated through the listserv their intent to seek licensure, with some individuals operating several houses.

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 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, and lease space. If each of the approximately 600 parties who stated interest through the listserv files one or more applications, the \$250 application fee will generate at least \$150,000 in revenue.

Remaining personnel costs will be covered by State funds, as well as a Federal block grant 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 a 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 beginning of residency 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 ending or completion of residency. 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 beginning and end of residency, and completion of residency.

The Department will have additional paperwork, including a recovery house licensing checklist, a 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 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, Chapter 717 is amended by adopting § 717.1 – 717.33 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 717.14, that shall take effect 180 days after publication in the *Pennsylvania Bulletin*.

JENNIFER S. SMITH,
Secretary

**INDEPENDENT REGULATORY REVIEW COMMISSION
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held July 15, 2021

George D. Bedwick, Chairman
John F. Mizner, Esq., Vice Chairman
John J. Soroko, Esq.
Murray Ufberg, Esq., dissenting
Dennis A. Watson, Esq.

Order Issued August 24, 2021
Regulation No. 74-4 (#3294)
Department of Drug and Alcohol Programs
Standards for Drug and Alcohol Recovery
House Licensure

On June 14, 2021, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Drug and Alcohol Programs (Department). This rulemaking amends 28 Pa. Code §§ 701.1, 701.11, and 701.12 and adds 28 Pa. Code Chapter 717. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*, with the exception of 28 Pa. Code § 717.14 that shall take effect 180 days after publication in the *Pennsylvania Bulletin*.

Section 2313-A of the act of December 19, 2017 (P.L. 1187, No. 59) (Act 59) directs the Department to “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, to ensure that a drug and alcohol recovery house provides a safe environment for residents.” 71 P.S. § 613.13. This final-omitted regulation adopts requirements for drug and alcohol recovery houses (DARH) in Chapter 717 (relating to standards for drug and alcohol recovery house licensure) as follows: General provisions; Exceptions; Licensure; Fines; Financial auditing; Staff and volunteers; Residents; Physical plant standards; Safety and emergency procedures; Unusual incident reporting; and Complaint management.

The final-omitted regulatory package was first submitted to this Commission on March 1, 2021, and withdrawn and resubmitted on March 15, 2021 to include additional forms. In response to public comments submitted on the earlier versions of the rulemaking, the Department withdrew the regulation on April 9, 2021 to review and address commentators’ concerns. The Department submitted a revised final-omitted regulatory package on June 14, 2021.

After a review of the final-omitted regulation, consideration of the comments from the regulated community, the public, and the discussion at our July 15, 2021 public meeting, we find that the rulemaking is not in the public interest because it does not meet the following criteria: statutory authority; possible conflict with statute; consistency with the intent of the General Assembly; economic and fiscal impacts of the regulation; protection of the public health, safety and welfare; clarity and lack of ambiguity; reasonableness; implementation procedures and timetable for compliance; and compliance with the provisions of the Regulatory Review Act. 71 P.S. § 745.5b(a) and (b)(1) – (3) and (6).

Implementation procedures and timetable for compliance; Protection of the public health, safety and welfare; Clarity and lack of ambiguity; Economic and fiscal impacts; Compliance with provisions of the Regulatory Review Act

Our main concern is that there are numerous provisions where the regulatory language in the regulation and/or the description in the Preamble do not provide the regulated community with sufficient information or direction to ensure compliance with the DARH standards. The rulemaking establishes two levels of licensure: full and provisional. The regulatory language for the provisional licensure process and its accompanying fee structure is less clear than those provisions for initial licensure and license renewal.

The Department notes that six commentators asked for a definition of “provisional license.” It responded that the provisional licensure process is described in the regulation under Section 717.8 (relating to provisional licensure). We concur with commentators that the regulation would be made clear if “provisional license” were defined. We also suggest that along with defining “provisional license,” the term “full licensure” and the definition of “license” be revised to include both levels.

Based on the nature of the comments received, the rulemaking should be rewritten so that the regulated community fully understands the fee structure for applying for licensure, including the issuance of a provisional license and extensions. The Preamble and the regulation should address the following questions: whether a provisional licensure fee is assessed each time it is extended under Section 717.8; and whether a fee is assessed when a “regular” (full) license is issued under Section 717.8(d)? A clearly stated fee schedule is essential information that every licensee and applicant should understand as they navigate the licensure process.

The Preamble explains that license renewal is on an annual basis, but Section 717.6 (relating to application) does not state the length of time of the initial license and it is also unspecified whether the renewal of a license is to occur on the date of issuance or calendar year (Section 717.6(b)).

Under Section 717.9 (relating to restriction on license), Subsection (a) states that licensure applies to the named DARH and the designated premises and is nontransferable. Subsection (b) provides for notification of change of ownership, name, location, maximum capacity, and the closing of the DARH. Failure to notify the Department leads to automatic expiration under Subsection (c). What is the purpose of Subsection (a) if the license is transferable with notification? If the license is specific and not transferable, how does the license not automatically expire if the DARH is moved to a different place? If saying that the license is transferable is a misstatement, what is the process to approve a transfer?

The final-omitted rulemaking does not address the visitation and inspection process. Section 717.10 (relating to right to enter and inspect) authorizes a representative of the Department to enter, visit, and inspect a DARH that is licensed or applying for a license. Section 717.11(a) (relating to notification of deficiencies) provides that a Department representative will leave forms with the applicant or licensee “to address areas of noncompliance with regulations.” This notification process is not explained in the Preamble.

Protection of the public health, safety and welfare; Clarity and lack of ambiguity; Reasonableness; Implementation procedures and timetable for compliance

The Department states that it neither wants to create confusion nor give the impression that DARHs are treatment facilities. Earlier versions of this regulation, which were subsequently withdrawn, amended Chapter 709 (relating to standards for licensure of freestanding treatment facilities) to include the DARH regulation. To alleviate commentators' concerns that placement of these standards in Chapter 709 could lead to discriminatory zoning, the Department moved the DARH standards out of Chapter 709 and into their own Chapter 717.

The Department also includes DARHs in Sections 701.11 and 701.12 (relating to exceptions to this part; and revocation of exceptions) which adds them to the lists of entities that may seek regulatory exceptions and may have regulatory exceptions revoked. We asked the Department why these exceptions are necessary when exceptions are included in Chapter 717. Does this not add another layer of exceptions to already existing exceptions? To expect licensees and applicants to comprehend how these provisions intersect and are to be applied is not reasonable. According to the Department, these updates to Chapter 701 were necessary because the chapter applies to the entire part, including Chapter 717. We disagree and believe that this approach actually detracts from the Department's stated goal of eliminating confusion or creating the misperception that DARHs are treatment facilities.

The Department explains in the Preamble that in order to maintain consistency in its internal processes for the handling of licensure, inspections, and approvals of all the entities it regulates, it adopts a regulatory structure for DARH licensure that is akin to the structure for licensure of freestanding drug and alcohol treatment facilities. This approach, while it may provide uniformity in how the Department operates, has not entirely eliminated the regulated community's confusion or concerns. The regulated community acknowledges the Department's efforts to eliminate misperceptions. But certain terms and phrases that are typically affiliated with medical treatment facilities such as "discharge" (Section 717.20(c)), "intake and admission" (Section 717.22) and a reference to "maximum capacity" (Section 717.9(b)(4)) remain in Chapter 717.

The Department states that it has developed these regulations to ensure that DARHs provide individuals with substance abuse disorders with a safe environment that promotes recovery. However, the lack of clarity as it pertains to implementation procedures and timetables for compliance of key provisions is a concern to this Commission. A regulation is not in the public interest if members of the regulated community or public cannot discern, based upon their reading of the regulation, what a term means, how a procedure is to be implemented or the timeline for compliance.

Clarity and lack of ambiguity; Protection of the public health, safety and welfare

Section 717.28(2) (relating to resident requirements) includes the term "illicit drugs." We asked the Department at the public meeting what the term encompasses. The Department's response was that the term has, in the absence of a specific definition, its common understanding,

which would be a drug that the person uses or possesses unlawfully. Regulations have the full force and effect of law and establish a binding norm that is applicable to all that fall under its jurisdiction. Therefore, regulations must be clear and unambiguous. If residents are being evicted for use of an illicit drug, could they make a claim that the term is too vague and did not realize that the provision had been violated? We believe so. The regulated community is entitled to guidance, as are residents who are not only paying rent, but are also challenged by substance abuse disorders. The term "illicit drugs" is also used in Sections 717.17(b)(5) and 717.31(a)(2) (relating to personnel management; and unusual incidents). The Department should define this term and not rely on its common understanding to enforce residency and licensure requirements.

Protection of the public health, safety and welfare; Implementation procedures and timetable for compliance; Clarity and lack of ambiguity

Section 2315-A of Act 59 requires the Department to create and maintain a registry on its publicly accessible website of all licensed or certified DARHs within the Commonwealth, which must be updated annually by the Department. 71 P.S. § 613.15. In order to receive and maintain licensure or certification, a DARH 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), as required under Section 2318-A of Act 59. 71 P.S. § 613.18. Further, failure to comply or remain in compliance shall result in loss of licensure or certification and removal from the registry. [Emphasis added].

In the Preamble to final-omitted rulemaking, the Department addresses questions raised by commentators regarding whether the application fees would be assessed per house or per organization if the entity operates more than one DARH. Knowing that an organization may have multiple DARHs operating under a common name and that some premises may be licensed and others not, we asked the Department at the public meeting if there was any consideration given to requiring unique names for licensed and unlicensed houses. Our concern is that the public may be misled when it visits the Department's website registry. The Department indicated that no consideration was given to requiring different names because it would cause administrative burdens to DARHs, such as registering fictitious names. However, the Department explains that the registry on the website will include the address of the DARH and each location will have its own specific and unique license. The Preamble states that to avoid confusion about which houses may accept public funding and referrals, it will include street address locations in the registry. The rulemaking does not specifically address how the registry will be managed. Act 59 requires DARHs to be removed from the registry for failure to comply or remain in compliance. Will those DARHs that are operating with a provisional license have their own designation on the registry? We reiterate our concern that the public, upon visiting the Department's website, should be able to easily determine which DARHs are licensed from those that are not.

Implementation procedures and timetable for compliance; Reasonableness; Protection of the public health, safety and welfare

Section 717.31 requires licensees to develop and implement written policies and procedures to respond to unusual incidents. Subsection (a)(8) requires a licensee to respond to an outbreak of a contagious disease requiring Centers for Disease Control and Prevention notification. What diseases will be required to be reported? We asked at the public meeting whether the Department gave consideration to including the diseases reportable to the Pennsylvania Department of Health. It stated that even though the Pennsylvania Department of Health is not listed, it does not excuse anyone who is required to report to the Department under the Disease Prevention and Control Law of 1955. 35 P.S. §§ 521.1 – 521.21. How would a licensee learn of this requirement if it is not part of the standards for licensure of DARHs? How is this approach reasonable?

Economic and fiscal impacts of the regulation; Protection of the public health, safety and welfare

The economic or fiscal impacts of the regulation, including the nature of the required reports, forms or other paperwork and the estimated cost of their preparation by the regulated community, have not been fully addressed in this rulemaking. The Department acknowledged in Regulatory Analysis Form (RAF) Question #19 the costs associated with implementing the physical plant and equipment standards required by Section 717.29 (relating to physical plant standards) and fire safety requirements in Section 717.30 (relating to safety and emergency procedures). However, the Department did not provide cost estimates for a DARH to meet these provisions in order to obtain licensure. The response to RAF Question #23 did not provide an accurate cost estimate for implementation of the regulation. The Department needs to accurately account for the fiscal impact of the regulation.

The Preamble states that the most frequent comment the Department received was the overall cost to comply with the standards. The Department explains in the RAF that it is likely costs associated with licensure will be passed on to residents, possibly resulting in a higher monthly fee than unlicensed recovery houses. As expressed by a public commentator, higher fees may lead to residents seeking less expensive housing that does not provide as stringent or structured environment. A regulation that places burdensome fiscal requirements on the regulated community is not protective of the public health, safety and welfare.

Statutory authority; Economic and fiscal impacts of the regulation

Section 717.16 (relating to fiscal management) requires a DARH to obtain the services of an independent certified public accountant for a financial audit of operations every two years, under generally accepted accounting principles. The Department estimates the biennial cost of this requirement to be \$10,000 per DARH. As addressed by public comments, this provision places significant direct costs upon the private sector. We note that this provision was revised from the first submission, which required a yearly audit, to extend the timeframe to every two years in an effort to lessen the fiscal impact. However, this may not lead to any significant savings, as the scope of review is not decreased.

Further, the Department does not appear to have the statutory authority to require a DARH to audit its operations. Section 2313-A(2) of Act 59 requires “[p]olicies and procedures

for **management** of all funds received and expended by the drug and alcohol recovery house in accordance with **standard accounting practices**, including funds received from or managed on behalf of residents of the drug and alcohol recovery house.” [Emphasis added.] The statutory requirement addresses the practices a DARH utilizes to manage funds. It does not appear to go so far as to require a DARH to pay for an audit to determine if financial statements are in conformity with generally accepted accounting principles.

Possible conflict with statute; Consistency with the intent of the General Assembly

The act of June 30, 2021 (P.L. 186, No. 35), known as Justin’s Law, requires a DARH to develop policies and procedures regarding notification of a designated emergency contact at least once, as consented to by the resident, when the resident self-discharges, or leaves and fails to return as expected. This notification shall occur immediately and in no event later than 12 hours following either circumstance. An exception is provided for residents who have revoked consent to notify and does not apply when a DARH has knowledge of or reason to know of allegations of domestic abuse perpetrated upon the resident by the emergency contact. While recognizing that Justin’s Law was signed into law after the Department delivered the regulation, we ask if the regulation is sufficient to meet the new statutory requirements. For instance, Justin’s Law includes requirements for revocation of consent for making an emergency contact, which is not addressed in Sections 717.22 and 717.27 (relating to intake and admission; and notification to family member or emergency contact). Justin’s Law also refers to a resident self-discharging while the regulation appears to place the authority to end residency solely with a DARH. Lastly, Justin’s Law requires a DARH to notify an emergency contact when a resident fails to return as expected. The regulation does not include provisions addressing how a DARH will document a resident’s schedule and monitor when a resident leaves and returns.

Consistency with the intent of the General Assembly

We find that the delay in submitting the regulation did not meet the legislative intent of utilizing the final-omitted rulemaking process, which provides for an abbreviated procedure to implement a regulation. The General Assembly recognized the urgency and importance in licensing DARHs so that individuals who are working to maintain sobriety have access to facilities that will maximize their chances for success. These regulations do not provide licensees with sufficient guidance in establishing and maintaining DARHs in order to achieve the intent of Act 59.

We have determined this regulation is consistent with the statutory authority of the Department (71 P.S. § 613.13) and the intention of the General Assembly. However, after considering all other criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

BY ORDER OF THE COMMISSION:

This regulation is disapproved.




George D. Bedwick, Chairman

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS**

REPORT OF THE DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS

Under section 7(c) of the Regulatory Review Act (71 P.S. § 745.7(c))

74-4: Standards for Drug and Alcohol Recovery House Licensure

IRRC no. 3294

At its July 15, 2021 public meeting, the Independent Regulatory Review Commission (IRRC) disapproved the Department's final rulemaking 74-4, related to Standards for Drug and Alcohol Recovery House Licensure. IRRC issued its disapproval order on August 24, 2021. After careful consideration of the concerns noted in IRRC's order, the Department now submits this response and amended rulemaking.

IRRC disapproved the final rulemaking because it found that "the rulemaking [was] not in the public interest because it [did] not meet the following criteria: statutory authority; possible conflict with statute, consistency with the intent of the General Assembly; economic and fiscal impacts of the regulation; protection of the public health, safety, and welfare; clarity and lack of ambiguity; reasonableness; implementation procedures and timetable for compliance; and compliance with the provisions in the Regulatory Review Act."

IRRC's main concern was that there were numerous provisions where the regulatory language in the regulation and/or the description in the Preamble did not provide the regulated community with sufficient information or direction to ensure compliance with the drug and alcohol recovery house standards. First, IRRC noted that "the regulation would be made clear if 'provisional license'" and "full licensure" were defined, and that "the definition of 'license' be revised to include both levels." In response, the Department added definitions of "full license" and "provisional license" to Section 717.3. The Department revised the definition of "license" to provide for full licenses upon compliance with the regulations and provisional licenses for substantial compliance.

Second, IRRC commented that the rulemaking should be rewritten so that the regulated community fully understands the fee structure for applying for licensure, including the issuance of a provisional license and extensions. IRRC stated that "the Preamble and the regulation should address...whether a provisional licensure fee is assessed each time it is extended under Section 717.8; and whether a fee is assessed when a "regular" (full) license is issued under Section 717.8(d)." The Department agrees that this fee structure could be better clarified in the Annex and Preamble. In response, the Department clarified in Subsection 717.6(c) that the Department will assess a fee of

\$250 for “each” issuance of a provisional license. Furthermore, the Department added the phrase “and receipt of the \$250 renewal fee” to 717.8(d) to clarify that a fee is assessed when a full license is issued. Both of those points were also clarified on page 15 of the Preamble.

Next, IRRC commented that although the Preamble explains that license renewal is on an annual basis, Section 717.6 (relating to application) does not state the length of time of the initial license, and it is also unspecified whether the renewal of a license is to occur on the date of issuance or calendar year. In response, the Department added Subsection 717.7(c), which provides that a full license will expire one year following the date it was issued, and further clarified this in the Preamble. To further clarify renewal procedures, the Department removed the term “annual” from Section 717.6(b) and re-named Section 717.6 “Application and renewal.”

Furthermore, IRRC questioned the purpose of Section 717.9(a), related to a license not being transferable, when Subsection (b) states that the licensee shall notify the Department in the event of a change in ownership, name change, location change, maximum capacity change, or closing of the drug and alcohol recovery house. IRRC asked how the license does “not automatically expire if the drug and alcohol recovery house is moved to a different place” if the license is specific and not transferable, and asked for “the process to approve a transfer” if “saying that the license is transferable is a misstatement.” The Department agrees that this section could be written more clearly for the regulated community. In response, the Department clarified that a license is not transferable under Section 717.9(a) prior to proper and timely notification as provided under Subsection (b).

IRRC also commented that the “rulemaking does not address the visitation and inspection process.” The Department agrees that insufficient details were provided in the previous version of the regulation. In response, the Department revised Section 717.11 to clarify that the Department will provide applicants and licensees with written notice of violations along with instructions on how to submit a plan of correction. IRRC also stated that the notification process should be “explained in the Preamble.” In response, the Department added additional details on page 16 to describe the exit interview and follow-up written notice of deficiencies via e-mail.

Next, IRRC asked the Department why Sections 701.11 and 701.12, related to exceptions to this part and revocation of exceptions, were “necessary when exceptions are included in Chapter 717.” IRRC asked whether this added “another layer of exceptions to already existing exceptions,” and stated that it was not reasonable to expect licensees and applicants to comprehend how these provisions intersect and are to be applied. The Department agrees that including Sections 701.11 and 701.12 may contribute to confusion or create a misperception that drug and alcohol recovery houses are treatment facilities. In response, the Department removed all revisions to Chapter

701 from this rulemaking and the moved the definition of "Drug and alcohol recovery house" from Section 701.1 to Section 717.3.

Further, IRRRC stated that the regulation still contains "certain terms and phrases that are typically affiliated with medical treatment facilities such as 'discharge' (Section 717.20(c)), 'intake and admission' (Section 717.22), and a reference to 'maximum capacity' (Section 717.9(b)(4))." In response, and in order to resolve the regulated community's confusion or concerns, the Department replaced the term "discharge" with "ending or completion of residence" (717.20(c) and 717.21(b)); removed the term "intake" and, when necessary, replaced the terms "intake" and "admission" with "residency" or "beginning of residency" (717.21(a), 717.22); and replaced the term "capacity" with "occupancy" (717.9(b)(4)). The Department also replaced the term "individuals cared for or treated by" at Section 717.12(a)(8) with "residents at" the drug and alcohol recovery house.

IRRC stated that the Department should define the term "illicit drugs" to enforce residency and licensure requirements and ensure clarity for the regulated community. IRRC is concerned that if residents are being evicted for use of an illicit drug, they could "make a claim that the term is too vague and did not realize that the provision had been violated." The Department agrees with IRRC that this term should be clear and unambiguous for both licensees and drug and alcohol recovery house residents. In response, the Department added definitions of the terms "illicit" and "drug" to Section 717.3.

Next, IRRRC noted that the rulemaking does not specifically address how the drug and alcohol recovery house website registry will be managed, and questioned whether drug and alcohol recovery houses "operating with a provisional license [will] have their own designation on the registry." The Department agrees with IRRC's belief that the public, upon visiting the Department's website, should be able to easily determine which drug and alcohol recovery houses are currently licensed from those that are not. In response, the Department added new Section 717.33, which provides for updates to the registry and the information the Department will post on the registry.

IRRC also asked how licensees would be able to identify which contagious diseases are reportable to the Department as unusual incidents. In response, the Department clarified this requirement in the Preamble and included the web address for the list of conditions reportable to the Centers for Disease Control. IRRC also asked how a licensee would "learn of this requirement" for certain diseases to be reported to the Department of Health under the Disease Prevention and Control Act of 1955 (35 P.S. §§ 521.1 - 521.21). The Department agrees that this requirement was not clear in the previous regulation, and added Subsection 717.31(d) in response, which specifies that, in addition to filing unusual incident reports with the Department, licensees must

also make reports to other agencies as required by applicable law, including the Disease Prevention and Control Law of 1955.

IRRC asked for additional clarity and specificity in the Regulatory Analysis Form regarding costs to comply with the regulation. To accurately account for the fiscal impact of the regulation, the Department re-calculated the costs to the regulated community and total costs in RAF Question #23 to reflect all costs described in RAF Question #19 associated with implementing the physical plant standards, fire safety requirements, administrative costs, and annual licensure fees. The estimate is also now based on 600 houses instead of 500, as the Department has seen additional interest in the licensure program through its listserv in the past two months.

Next, IRRC stated that the requirement to conduct a biennial audit imposes "significant direct costs upon the private sector." Further, IRRC believes that an audit is not within the Department's statutory authority. In response, the Department revised Section 717.16 to remove the requirement for an audit. In order to meet the statutory requirement that the regulations include "[p]olicies and procedures for management of all funds received and expended by the drug and alcohol recovery house in accordance with standard accounting practices, including funds received from or managed on behalf of residents of the drug and alcohol recovery house" (71 P.S. § 613.13(2)), the Department will require drug and alcohol recovery houses to maintain itemized records and documentation of revenues and expenditures. In addition, the Department revised Subsection 717.25(a) and Paragraph 717.25(d)(1) to require that drug and alcohol recovery houses maintain records of their financial relations with residents in accordance with standard accounting practices. This change will remove a potentially burdensome fiscal requirement on the regulated community.

IRRC asked whether the regulation complies with Justin's Law (71 P.S. § 613.19) effective August 29, 2021, which requires drug and alcohol recovery houses to notify emergency contacts when a resident decides to end residency or does not return at the expected time. The Department agrees that the resubmission of its regulation to IRRC is an ideal opportunity to provide sufficient detail to meet the new statutory requirements. In response, the Department revised Section 717.27 to provide for notification of a resident's emergency contact, by a method consented by the resident, in the event the resident decides to end residency or does not return to the drug and alcohol recovery house when expected. IRRC also stated that "the regulation does not include provisions for addressing how a [drug and alcohol recovery house] will document a resident's schedule and monitor when a resident leave and returns." In addition, the Department revised Subparagraph 717.22(b)(2)(i) to include house rules for a method to record residents' expected return times. The Department also added Subsection 717.23(c) to confirm that a resident may decide to end residency.

Lastly, IRRRC noted that there was “delay in submitting” these final-omitted regulations. The Department recognizes that the regulations were submitted on June 14, 2021, almost 36 months after the effective date of Act 2017-59. This delay was partly because the Department distributed an early draft of the regulation to stakeholders for review and comment in May 2019 even though it was not required as part of the formal rulemaking process for final-omitted regulations. The COVID-19 emergency that arose suddenly in March 2020 led to further delay. On April 9, 2021, the Department had also withdrawn the regulation that had been initially submitted to IRRRC on March 15, 2021, in order to thoroughly review and address additional significant concerns from the public that it had not previously received on the draft regulation. Even though the Department did not submit these regulations until June 2021, it still has authority to proceed with this final-omitted rulemaking because Act 2017-59 does not indicate that the timeframe to promulgate the regulations is essential to the statutory purpose or mandatory. See *Scarnati v. Dep’t of Envntl. Prot.*, 220 A.3d 723, 729 n.9 (Pa. Commw. 2019), *aff’d* 240 A.3d 536 (Pa. 2020). The Department appreciates “the legislative intent of utilizing the final-omitted rulemaking process,” which recognized the “urgency and importance” of a licensing program for drug and alcohol recovery houses. During all stages of this process, the Department has worked hard to ensure that all stakeholder voices have been heard, that the regulation strikes the appropriate balance between costs and benefits to the regulated community, and that, most importantly, the health and safety of Pennsylvanians in recovery from substance use disorder is at the forefront of this regulation.



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

Annex A

TITLE 28. HEALTH AND SAFETY

PART V. DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS

CHAPTER 717. STANDARDS FOR DRUG AND ALCOHOL RECOVERY HOUSE

LICENSURE

§ 717.1. Scope.

- (a) This chapter establishes the procedures for the issuance of a drug and alcohol recovery house license.**
- (b) This chapter 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).**

§ 717.2. 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).

§ 717.3. Definitions.

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

Drug—As defined in section 2 of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-102).

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

Full license—A certificate issued by the Department when it has found a licensee in compliance with the requirements of this chapter.

Illicit—Unlawful for the person to possess under the laws of the Commonwealth of Pennsylvania.

License—A full or provisional certificate which indicates the Department has found a drug and alcohol recovery house to be in full or substantial compliance with the standards established under this chapter.

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.

Provisional license—A certificate issued by the Department when it has found the licensee in substantial but not complete compliance with the requirements of this chapter.

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.

§ 717.4. Exceptions.

(a) The Department may in its discretion grant exceptions or extensions of time to this chapter upon a showing by a drug and alcohol recovery house that it meets the policy objectives of this chapter. The Department will not grant an exception that violates any statute.

(b) A drug and alcohol recovery house shall submit all requests for exceptions in writing.

§ 717.5. Revocation of exceptions.

(a) The Department may revoke an exception granted under this chapter. The

Department will provide a written notice of revocation that states the reason for the revocation and a specific date when the revocation will take effect.

(b) The Department will allow at least 30 days between the mailing date of the notice of revocation and the date of termination of an exception.

(c) A drug and alcohol recovery house may file a written appeal within 30 days of the mailing date of the notice of revocation of the exception.

§ 717.6. Application and renewal.

(a) An applicant for an initial license shall submit to the Department the following for each drug and alcohol recovery house:

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

(2) A copy of all policies and procedures required under sections 717.17-717.19 717.22, 717.24-717.28, and 717.30-717.31.

(3) An application fee of \$250.

(b) A licensee applying for renewal of a license shall submit to the Department the following for each drug and alcohol recovery house:

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

(2) A copy of all policies and procedures required under sections 717.17-717.19 717.22, 717.24-717.28, and 717.30-717.31 that have been revised since the previous application.

(3) A renewal fee of \$250.

(c) The Department will assess a fee of \$250 in addition to the fees in subsections (a) and (b) for each issuance of a provisional license under § 717.8.

(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 § 717.8 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.

§ 717.7. Full licensure.

(a) The Department will issue a full license to operate the drug and alcohol recovery house when it determines, after an on-site inspection by an authorized representative of the Department, that the applicant or licensee has met the requirements for licensure under this chapter.

(b) The Department will issue a full license to an applicant or licensee and will indicate the name of the drug and alcohol recovery house, the address and the date of issuance.

(c) The full license shall expire one year following the date it is issued.

(d) The drug and alcohol recovery house shall display the current license in a public and conspicuous place in the drug and alcohol recovery house.

§ 717.8. Provisional licensure.

- (a) The Department will issue a provisional license, valid for a specific time period of no more than 6 months when the Department finds that a drug and alcohol recovery house:
- (1) Has substantially, but not completely, complied with applicable requirements for licensure.
- (2) Is complying with a course of correction approved by the Department.
- (3) Has existing deficiencies that will not adversely alter the health, welfare or safety of the residents.
- (b) Within 15 working days of receipt of the deficiency report, the applicant or licensee shall submit a plan to correct deficiencies noted during the site visits.
- (c) The Department will not renew a provisional license more than three times.
- (d) The Department will issue a full license upon compliance with this part and receipt of the \$250 renewal fee.
- (e) The drug and alcohol recovery house shall display the current license in a public and conspicuous place in the drug and alcohol recovery house.

§ 717.9. Restriction on license.

- (a) A license applies to the licensee, the named drug and alcohol recovery house and the premises designated therein and is not transferable prior to proper and timely notification as provided under subsection (b).
- (b) The licensee, using Department forms, shall notify the Department within 90 days of the occurrence of any of the following conditions:

- (1) Change in ownership.
 - (2) Change in name of the drug and alcohol recovery house.
 - (3) Change in location of the drug and alcohol recovery house.
 - (4) Change in maximum occupancy.
 - (5) Closing of the drug and alcohol recovery house.
 - (c) Failure to notify the Department as required under subsection (b) will result in automatic expiration of the license.
- § 717.10. Right to enter and inspect.**
- (a) An authorized representative of the Department has the right to enter, visit, and inspect a drug and alcohol recovery house licensed or applying for a license under this chapter.
 - (b) The authorized Department representative shall have full and free access to the records of the drug and alcohol recovery house and its residents.
 - (c) The authorized Department representative has the right to interview residents as part of the visitation and inspection process.

§ 717.11. Notification of deficiencies.

- (a) The Department will provide written notice to the applicant or licensee of any noncompliance with regulations, along with instructions for the applicant or licensee to submit and complete a plan to correct the noncompliance.
- (b) The applicant or licensee shall complete and submit the plan to correct the noncompliance in accordance with the instructions to the

Department within 15 working days after the site visit.

- (c) The Department will not renew a license until it has approved a plan of action. The Department will not issue a license to an applicant until the applicant has corrected all noncompliance.

§ 717.12. Refusal or revocation of license.

- (a) The Department may revoke or refuse to issue a license for any of the following reasons:

- (1) Failure to comply with a directive issued by the Department.
- (2) Violation of, or noncompliance with, this chapter.
- (3) Failure to comply with a plan of correction approved by the Department, unless the Department approves an extension or modification of the plan of correction.
- (4) Gross incompetence, negligence or misconduct in the operation of the drug and alcohol recovery house.
- (5) Fraud, deceit, misrepresentation or bribery in obtaining or attempting to obtain a license.
- (6) Lending, borrowing or using the license of another drug and alcohol recovery house.
- (7) Knowingly aiding or abetting the improper granting of a license.
- (8) Mistreating or abusing residents at the drug and alcohol recovery house.
- (9) Continued noncompliance in disregard of this part.
- (10) Operating a drug and alcohol recovery house that, by nature of its

physical condition, endangers the health and safety of the public.

(b) If the Department proposes to revoke or refuse to issue a license, it will give written notice to the applicant or licensee by certified mail, stating the following:

(1) The reasons for the proposed action.

(2) The specific time period for the drug and alcohol recovery house to correct deficiencies.

(c) If the drug and alcohol recovery house does not correct the deficiencies within the specified time, the Department will officially notify the applicant or licensee that it shall show cause why its license should not be denied or revoked under 1 Pa. Code § 35.14 (relating to orders to show cause), and that it has a right to a hearing authorized by the Department on this question. The applicant or licensee shall file a written request within 30 days of receipt of the show cause order.

(d) Subsection (c) supplements 1 Pa. Code § 35.14.

§ 717.13. Hearings.

(a) The Department will convene and conduct a show cause hearing for a drug and alcohol recovery house under 1 Pa. Code § 35.37 (relating to answers to orders to show cause) and this chapter.

(b) An administrative hearing held under this section will be conducted under 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

(c) The Department may institute legal proceedings to enforce compliance

with this chapter.

(d) This section supplements 1 Pa. Code Part II.

§ 717.14. Fines.

(a) The Department will impose fines on the operator of an unlicensed recovery house in accordance with Section 2316-A(a) of the Administrative Code of 1929 (71 P.S. § 613.16(a)).

(b) For purposes of a violation under Section 2316-A(a) of the Administrative Code of 1929 (71 P.S. § 613.16(a)), each day of operating a drug and alcohol recovery house that requires a license without a current license shall constitute a separate violation.

§ 717.15. 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.

§ 717.16. Fiscal management.

The licensee shall develop and implement written policies and procedures for management of all funds received and expended by the drug and alcohol recovery house in accordance with standard accounting practices, including an itemized record and documentation of all revenues and expenditures.

§ 717.17. Personnel management.

- (a) The licensee shall develop and implement written personnel policies and procedures in compliance with State and Federal employment laws, including:**
- (1) The Pennsylvania Human Relations Act (43 P.S. §§ 951 – 963).**
 - (2) Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C.A. §§ 2000e – 2000e-17).**
 - (3) Title I of the Americans with Disabilities Act of 1990, as amended (42 U.S.C.A. 12111 – 12117).**
 - (4) The Age Discrimination in Employment Act of 1967, as amended (29 U.S.C.A. §§ 621 – 634).**
- (b) 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 engaging in work at the drug and alcohol recovery house.**

(c) 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.

§ 717.18. 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 90 days 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.

§ 717.19. 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 a resident 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.

§ 717.20. Resident records.

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

(1) All records obtained under § 717.22.

(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 ending or completion of residency.

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

§ 717.21. Resident roster.

(a) The licensee shall maintain a resident roster that identifies the date of each resident's beginning and end or 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 ending or completion of residency.

(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.

(d) A licensee that discontinues operation of a drug and alcohol recovery house shall notify the Department where it will store the resident roster.

§ 717.22. Beginning of residency.

(a) The licensee shall develop and implement written policies and procedures for beginning of residency which include:

(1) Residency criteria.

(2) Requirements for completion of residency by meeting a resident's treatment, personal or financial goals or social-emotional or other needs.

(3) Criteria for ending residency before completion under paragraph (2), including a timeline.

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

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

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

(i) Drug and alcohol recovery house rules, including a method to record residents' expected return time to the drug and alcohol recovery house.

- (ii) Fee schedule including any 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.

§ 717.23. 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 before the decision to end residency takes effect.
- (c) The resident may decide to end residency without providing a reason to the licensee.

§ 717.24. 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 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. The policy must provide that controlled substances stored at the drug and alcohol recovery house will be kept in a locked container.
- (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.

§ 717.25. 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 the licensee, the drug and alcohol recovery house or its employees and the resident or on behalf of the resident in accordance with standard accounting practices. 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 in accordance with standard accounting practices, 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 licensee's 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.

§ 717.26. 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.

§ 717.27. Notification to family member or emergency contact.

(a) The licensee shall develop and implement written policies and procedures that specify the methods and circumstances, including the resident's hospitalization or death, for notifying the resident's emergency contact with the resident's consent. The resident may revoke consent to provide notice to the emergency contact.

(b) The licensee shall make at least one attempt to notify the resident's emergency contact in accordance with subsection (a) immediately and in no event more than 12 hours after the resident decides to end residency or does not return to the drug and alcohol recovery house as expected. This subsection shall not apply if the licensee knows or has reason to know of allegations of domestic abuse on the resident by the emergency contact.

§ 717.28. 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.

§ 717.29. Physical plant standards.

(a) Compliance with applicable laws.

The licensee shall 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 unless the bedroom is used as an exit under § 717.30(b)(2).**
- (ii) Contain the sole egress to a stairway or basement.**

(3) Notwithstanding requirements in paragraph (1) and (2), 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 residents, 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.

§ 717.30. 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, staff, and volunteers to a safe location.

(2) Assignments of staff and volunteers 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 unobstructed exits that are separated by a minimum distance of 15 feet on every floor that contains resident bedrooms. Equipment such as ladders and escapes located above the ground floor must be securely affixed to the house. Rooms, including resident bedrooms, that contain an exit must be unlocked and accessible to all residents in the event of an emergency.
 - (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) Clearly indicate exits.
 - (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.

§ 717.31. 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 on or off the premises.
- (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, a volunteer 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.

(d) The licensee shall make reports to other boards and agencies as required by applicable law, including section 4(b) of the Disease Prevention and Control Law of 1955 (35 P.S. § 521.4).

§ 717.32. 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 chapter.

(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 chapter to another Federal, State, or local agency or entity within two business days.

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

(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.

§ 717.33. Drug and alcohol recovery house registry.

(a) The Department will create on its website and update at least annually a registry of licensed drug and alcohol recovery houses.

(b) The registry will include, for each licensed drug and alcohol recovery house:

(1) The name of the licensee.

(2) The name of the drug and alcohol recovery house.

(3) The street address of the drug and alcohol recovery house.

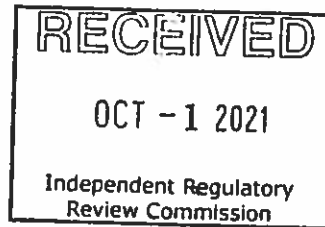
(4) The contact information listed in the drug and alcohol recovery house's application under § 717.6.

(5) The drug and alcohol recovery house's maximum occupancy.

(6) Any other information the Department determines is in the public interest.

(c) The registry will:

- (1) List whether each drug and alcohol recovery house has a full license, a provisional license, or is operating pending appeal of the revocation of its license.**
- (2) Contain a notice that not all drug and alcohol recovery houses must be licensed and that some licensees may operate both licensed and unlicensed drug and alcohol recovery houses.**



October 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 adds *Pennsylvania Code*, Title 28, Chapter 717 (Standards for Drug and Alcohol Recovery House Licensure), is submitted for review by your Committee 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.

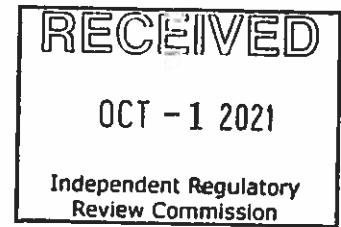
Sincerely,

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

Kathy Cooper

From: eraub
Sent: Friday, October 1, 2021 9:55 AM
To: Fellin, Daniel
Subject: Re: Recovery House regulations for Rep. Farry.



Received. Thanks!

Sent from my iPhone

> On Oct 1, 2021, at 8:14 AM, Fellin, Daniel <dfellin@pa.gov> wrote:

>

> Attached please find Rep. Farry's copy of the Department of Drug and Alcohol Programs' resubmitted 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 IRRRC Disapproval Order issued August 24, 2021 --The Department's

> Report in response to the Disapproval Order --The Regulatory Analysis

> Form (RAF) --The Preamble --The Annex --Applicable forms and

> descriptions of documents for section 22(b) of the Regulatory Analysis

> Form, including the licensing application and Recovery House Licensing

> Checklist

>

> Please respond with acknowledgement of receipt of these documents at your earliest convenience, so that the Department can complete delivery of the regulation to the Independent Regulatory Review Commission on the same day as it is delivered to the Office of Attorney General and the standing legislative committees pursuant to the Regulatory Review Act, 71 P.S. § 745.5a.

>

> The Department will provide in a separate e-mail tracked versions of the RAF, Preamble, Annex, forms, and Recovery House Licensing Checklist that will identify the changes made in response to the Disapproval Order.

>

>

> 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<mailto:dfellin@state.pa.us>

>

> <https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.o>

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> &reserved=0>

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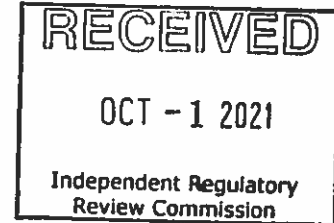
Kathy Cooper

From: iwright
Sent: Friday, October 1, 2021 9:15 AM
To: Fellin, Daniel
Cc: Conrad, Laura
Subject: Re: Recovery House regulations for Rep. Cruz

Received, thank you for sending.

Best,
Imogen

Imogen Wright | Executive Director
House Human Services Committee (D)
717.440.3037 (Cell) | iwright@pahouse.net



From: Fellin, Daniel <dfellin@pa.gov>
Sent: Friday, October 1, 2021 9:10 AM
To: Wright, Imogen L. <IWright@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' resubmitted 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 IRRC Disapproval Order issued August 24, 2021
- The Department's Report in response to the Disapproval Order
- The Regulatory Analysis Form (RAF)
- The Preamble
- The Annex

--Applicable forms and descriptions of documents for section 22(b) of the Regulatory Analysis Form, including the licensing application and Recovery House Licensing Checklist

Please respond with acknowledgement of receipt of these documents at your earliest convenience, so that the Department can complete delivery of the regulation to the Independent Regulatory Review Commission on the same day as it is delivered to the Office of Attorney General and the standing legislative committees pursuant to the Regulatory Review Act, 71 P.S. § 745.5a.

The Department will provide in a separate e-mail tracked versions of the RAF, Preamble, Annex, forms, and Recovery House Licensing Checklist that will identify the changes made in response to the Disapproval Order.

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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Kathy Cooper

From: clarissa.freeman
Sent: Friday, October 1, 2021 9:07 AM
To: Fellin, Daniel
Cc: Conrad, Laura
Subject: RE: Recovery House Regulations for Sen. Haywood

Received!

Thank you,

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

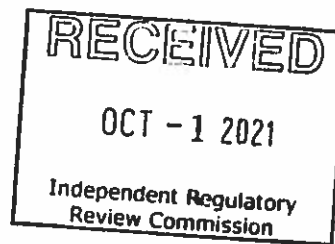
10 East Wing, Main Capitol Building
Harrisburg, Pennsylvania 17120-3004
717-787-1427 (P)
717-772-0572 (F)

7106 Germantown Avenue
Philadelphia, Pennsylvania 19119-1837
215-242-8171 (P)
215-242-6118 (F)

1168 Easton Road
Abington, PA 19001
215-517-1434 (P)
215-517-1439 (F)

Our Harrisburg Office is open Monday to Wednesday and Fridays from 9:00am- 4:45pm, and will serve you remotely on Thursdays, by phone, email, and online from 9:00am – 4:45pm. Please call us at 717-787-1427 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: Friday, October 1, 2021 8:15 AM
To: Freeman, Clarissa <Clarissa.Freeman@pasenate.com>
Cc: Conrad, Laura <laurconrad@pa.gov>
Subject: Recovery House Regulations for Sen. Haywood

■ EXTERNAL EMAIL ■

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Attached please find Sen. Haywood's copy of the Department of Drug and Alcohol Programs' resubmitted 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 IRRRC Disapproval Order issued August 24, 2021
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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

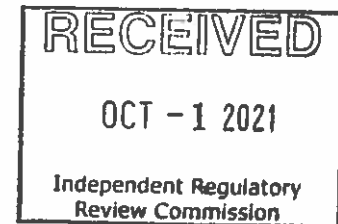
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Kathy Cooper

From: Bradbury, Joan
Sent: Friday, October 1, 2021 10:52 AM
To: Fellin, Daniel
Cc: Conrad, Laura
Subject: RE: Recovery House regulations for Sen. Brooks



Received, thank you.
Joan

From: Fellin, Daniel <dfellin@pa.gov>
Sent: Friday, October 1, 2021 8:15 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' resubmitted final-omitted regulations for the licensure of drug and alcohol recovery houses.

The merged file contains:

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Thank you.

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

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Phone: 717.783.8200 | Fax: 717.214.1939
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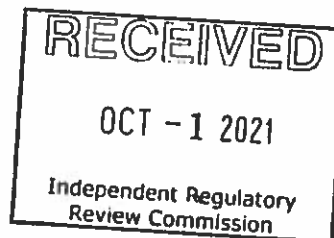
Kathy Cooper

From: Elliott, Amy M. <aelliott@attorneygeneral.gov>
Sent: Friday, October 1, 2021 9:11 AM
To: Rizzi, Alicia (GC)
Subject: RE: [EXTERNAL] Resubmission - DDAP Final-Omitted Regulation #74-4

Receipt acknowledged. Just to confirm, with this resubmission, OAG now has 30 days to review the regulation.

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: Friday, October 1, 2021 8:52 AM
To: Elliott, Amy M. <aelliott@attorneygeneral.gov>; Trotter, Carolyn <ctrotter@attorneygeneral.gov>
Cc: Abelson, Addie <aabelson@pa.gov>
Subject: [EXTERNAL] Resubmission - DDAP Final-Omitted Regulation #74-4
Importance: High

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Good morning,

Attached please find a resubmission of DDAP's final-omitted regulation #74-4, which has been revised in response to IRRC's disapproval. A redlined version of the Preamble, Annex, RAF, and forms will be provided in a separate email.

Please respond to this email at your earliest convenience to acknowledge receipt of this submission so that DDAP may provide proof of delivery to IRRC later today.

Thank you,

Alicia C. Rizzi | Legal Office Administrator
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
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