

**ZONING HEARING BOARD
SUSQUEHANNA TOWNSHIP
RESPONSE TO APPEAL APPLICATION FOR OTHER RELIEF
OCCUPANCY PERMIT & PARKING VARIANCE**

Steps Of Active Recovery currently does not operate any halfway houses, we have a womens recovery house named Marty Mannor at 2319 Canby Street. As a Recovery House, by the current laws set forth by DDAP, we are not required a full-time employee or to be any specific distance from schools parks churches etc. Unfortunately at this time Susquehanna Township does not distinguish between halfway houses, recovery houses, or sober living houses (also called $\frac{3}{4}$ houses). DDAP (Department of Drug and Alcohol Programs) is the Commonwealth licensing agency for all recovery houses and facilities: this includes detox centers, rehabs, halfway houses, and recovery houses – sober living or $\frac{3}{4}$ houses are not licensed. Susquehanna Township is looking to update the language and ordinances to include the differences between the facilities/houses. Currently Susquehanna Township lists all recovery houses, sober living houses, and halfway houses under the same umbrella as a halfway house; but they are all very distinct and different facilities and houses, which is why the ordinances are under review for change.

The difference between a Halfway House and a Recovery House is that a Halfway House provides treatment and is a locked facility, it is paid for by medical insurances. Towards the end of treatment, clients are expected to obtain a job and start saving money so they can then move into a Recovery House. A Recovery House does not provide treatment and is not a locked facility. It is a home environment that has a lot of rules and regulations that residents must follow. Insurance does not pay for a Recovery House, the residents are expected to pay their own rents, although some may get grants when they first move in to pay the initial costs of moving in and maybe an additional month or two of rent.

The difference between a recovery house and a sober living house is a recovery house has more rules and regulations than a sober living house. A Recovery House does have a curfew, it has residency requirements, and may or may not be licensed A sober living house does not do random urine tests, have meeting requirements, or as many rules; it's more of a rooming house where people happen to be sober. Most sober living houses do not have curfews and they are never licensed. Please reference the Resident Handbook and Resident Agreement to see our long list of requirements.

We are asking for the parking variance for 3 spaces because it would be a hardship to create parking spaces and those parking spaces are not needed since residents are not permitted to have vehicles. Under the current ordinance, a group home or a halfway house must have one space per two beds plus one space for each employee on the largest shift. Under the state laws set forth by DDAP, there is no staff requirements other than a "House Manager" which may or may not reside at the house, in the case of Marty Mannor, the Steps Of Active Recovery vice president is the house manager and resides in Susquehanna Township about one mile from the house. 95% of people that reside in recovery houses have lost their license and/or their vehicle. The few who do have a license and vehicle usually cannot afford the costs involved in owning and operating a vehicle. The Resident Agreement form (top of page 2) for Marty Mannor specifically states that residents are not permitted a vehicle at Marty Mannor during their residency with us.

There is no access to the backyard in order to create parking spaces. There is a one car garage and a two car garage at the back of the property, both are being used for the house – one is storage and one is a

clothing bank. On one side of the garages there is a small unused walkway that leads to a fence, on the other side of the garages there is a walkway and enough space for the trash cans. There is not enough space for anything larger than a motorcycle to drive between our garage and the neighbor's garage. It would be a hardship to demolish a garage to create parking spaces in the backyard. There is enough space between the garages and the alley for two vehicles to parallel park. Currently when board members visit the house, we park by the garages or on the street. Rarely have we ever had difficulty finding enough parking spaces. In the event the street parking is not available, the car lot across the street has given permission for volunteers to park in their lot when dropping off donations. There is no employees required under current laws, generally recovery houses do not have paid staff unless they're operated by a larger corporation for profit. Steps Of Active Recovery is a small nonprofit organization with five volunteer board members.

In response to the specific questions the township had for us:

- 1. The township ordinance states a halfway house must be licensed where required by appropriate government agencies.** We are a Recovery House which does not require any licensing in the Commonwealth of Pennsylvania; however we are applying for licensing through DDAP. The state does not require any occupancy permits or zoning requirements, however the township does so we must obtain those and provide them with our DDAP licensing packet (the DDAP forms are attached). Before we made the repairs and renovations to the house, we did check all of the proposed DDAP licensing requirements, much of which was dropped from the requirements. We currently meet or exceed all of the DDAP's licensing requirements and we do not know how long it will take for licensing. DDAP only began licensing Recovery Houses earlier this year, the licensing requirements for those houses that choose to be licensed went into effect June 7, 2022. At this time only 5 houses are licensed in Dauphin, Cumberland, Schuylkill, Juniata, and Perry counties, the majority are not licensed. We will be in the minority as a licensed Recovery House.
- 2. A halfway house shall be directly affiliated with a parent institution or organization which shall provide full-time supervision and administration to the residents of the house.** Again we are a recovery house and not a halfway house so we are not required to be affiliated with a parent institution or provide full-time supervision and administration, under current laws set forth by DDAP. We do have five volunteer board members and any of us are able to supervise at any given time, most of us reside within two miles of the house. There are multiple outside cameras that we are able to view on our cell phones or home computers. The cameras are set up to do recording via the office security hub. All entrance doors to the house do operated with a secure code. Each resident and board member has a separate code. When a woman no longer resides at Marty Mannor, her code is deleted so she no longer is able to enter the house and the other residents and board members codes are not affected.
- 3. A common cooking or an eating area must be provided, no cooking or dining facilities shall be provided in individual rooms or suites.** Our house rules forbid eating food outside of the kitchen, dining, or backyard. There is a large kitchen that several women can cook in at the same time. The dining room table seats ten so all residents can sit together as a family for meals. The backyard has a large family table with a total of 16 outdoor chairs, plus there is three additional seating areas with an additional 2 more tables and 11 more seats.
- 4. The residents of a halfway house shall reside on premises to benefit from the services provided.** All residents will reside on the premises and they are allowed up to one 48 hour pass every 14 days to go home and visit family.

5. Necessary permits for water supply and sanitary waste disposal must be obtained. This is not applicable since we are not new construction, we are an existing structure and required permits & inspections were obtained for the repairs where needed.

6. The halfway house will not be look at within 1000 feet of religious structure, public recreation facility, school facility, daycare center, or public library. This requirement does not apply to recovery houses, and we are not within 1000 feet of any of those facilities. The only businesses within 1000 feet is Nepal Auto Sales and NuWave Car Wash, and a large cemetary.

7. The house halfway house should not be located within 1000 feet of another halfway house. We are a recovery house not a halfway house and we are more than 1000 feet away from the other recovery houses and the halfway house that are in the neighborhood.

8. Each special exception application shall be accompanied by statement describing the following:

A. Character of the halfway house. Please see the two attached pages of photos of the house. Three of the five SOAR board members are veterans. Between the five board members there is over 105 years of recovery from substance use disorder, that averages 21 years per member. Two of our board members are mentors in Veterans Treatment Court. The board members are active in the local recovery community, and we as a nonprofit, are hooked up with multiple local agencies to provide assistance as needed to our clients. All of our board members have passed a state police background check and none of the board members have a record.

Steps Of Active Recovery (the nonprofit organization) and Marty Mannor (the Recovery House operated by SOAR) would have essentially the same use in the neighborhood that it has had in recent years, except that it would be well managed and supervised. It would not be changing the zoning, it is currently zoned as a high density mixed use corridor. It was a mens boarding house for the last six years. There was no complaints from the neighbors to the township during the time that it was a men's house. The house did have anywhere from 5 to 10 occupants at any given time, some who were felons and/or on probation. The yard was severely neglected and overgrown when we evicted the squatters, you could not see the fences, the grass was waist high, and there was a lot of trash and liquor bottles in the side, front, and back yards. Windows were broken and squatters were climbing through the broken windows. We had to rent a large commercial dumpster to clean out the house. We then repaired and replaced a lot in the home with volunteers and donations from the local community.

Under DDAP licensing, Marty Mannor is capable of 13 beds, however we choose to have 9 beds. There is 3 bedrooms on the second floor and 1 bedroom on the first floor. We have 3 full bathrooms, one on each level. We do provide a laundry room with a washer and dryer. The living room currently has seating for 15 without having to bring in additional chairs. The dining room seats 10 at the table for family style meals. The first floor has a foyer that includes the medication lockers and a bulletin board for local recovery events and an area for bus schedules, meeting schedules, even local pizza menus. The kitchen has a large food cubby system where the women store their personal food. The linen closet off the kitchen has been turned into a shared food pantry. There are 3 refrigerators for 9 women. There is also a chest freezer for community food. There is a large rec/multi-purpose room in the basement that has a tv with seating for 9, a sewing table, a folding table with 10 chairs, exercise equipment, games & puzzles, and an art supply cabinet. There is a locked office where resident files can be kept secure and the security system hub is not accessible by residents. The second floor has a common area where the ladies have a shared desk that they can set up their tablets or laptops. The old linen closet has been turned

into a community toiltry closet. Marty Mannor has a very long and narrow yard which has allowed us to give the ladies a flower garden, a large meditation area, a dining area, a smoking area (smoking and vaping are not permitted in the house or front yard), plenty of lawn space, and in the spring a large vegetable garden.

The women are expected us to stay a minimum of 6 months and a maximum of 24 months. As a Recovery House, under current state regulations set forth by DDAP, we do not, and cannot, provide counseling or treatment. Upon intake we do provide a list of resources so that residents can access social, medical, and treatment services. Because we can not provide nursing care, we do not accept women in their third trimester of pregnancy. If a woman becomes pregnant while residing at Marty Mannor, or is pregnant at the time of application, we will refer her to the appropriate agencies for assistance. Some women may be on probation or parole, we do require a signed Release of Information so that we can have open communication with their probation officer, we do not accept violent criminals or sex offenders.

Residents are required to attend the mandatory house meeting weekly. This allows us to make sure everybody is meeting the requirements they have agreed to in their Resident Agreement contract and to see if anyone has any needs not being addressed. Marty Mannor is located within walking distance of five different bus routes and we do provide the bus schedules for the women and encourage them to use the CAT Transit app. Under the law set forth by DDAP, we cannot provide any kind of treatment or require residents to attend treatment at a specific place, please refer to the DDAP licensing requirements for further clarification. We do provide a list of resources so that they may obtain the aftercare treatment that they may need, some of those treatment places are within walking distance. We strive to give the women the tools they need to succeed and to prevent relapses.

As a nonprofit, we have contracted with local area food banks for food, beverages, toiletries, and other supplies. We have also turned one of the garages into a clothing bank for our residents. This allows the women to concentrate on their recovery and to save money needed later to obtain their own apartments. All of the residents are required to attend five 12 step meetings per week and have papers signed to verify they were in attendance. All residents are required to have a homegroup and a sponsor. Residents are never permitted to consume any form of alcohol, drugs, marijuana, or certain mind altering medications. Gambling and pornography are prohibited. The urine drug screening tests we use are a 16+ panel test, please see the attached Urine Drug Screen Report. Most people in early recovery are on medication of some sort, we do provide a secure commercial locker for each woman for her medications. They are not allowed to share medication or leave any kind of medication out, this includes over-the-counter meds. They must notify us within 24 hours of any new medications or changes in dosages.

Residents are expected to work at least 35 hours per week. If a woman is in school or receiving disability then she may be required to perform 20 hours a week of community service. This keeps the women active so they are not sleeping all day or lying around watching television all day. We do require women to follow a budget for at least the first 90 days (longer if needed) so that they learn to live within their means. All resident's guests are preapproved before they are permitted to visit on the property. Some of our residents will be women who are away from their children so their children will be visiting them. There are never overnight visitors allowed.

B. The policies and goals of the halfway house and the means proposed to accomplish those goals. Please refer to the Application for Residency, the Resident Handbook, and the Resident Agreement that was previously filed.

C. The characteristics of the residence and number of residents to be served. We do not accept women directly out of prison or straight from the streets. Each applicant goes through a screening process, we reject about 1/3 of those that apply. All potential residents must have completed a minimum 30 day residential program for Substance Use Disorder, we do not accept women who leave facilities AMA or do not complete the programs they were in. Under the DDAP licensing requirements, with the bedrooms square footages we would be allowed a total of 13 beds if we were to install bunkbeds. We are not using bunkbeds so we only have nine beds. The majority of recovery house applicants are nearing completion (or have completed) of a halfway house program so they have been in residential treatment for Substance Use Disorder for 6-12 months prior to coming to us and are now ready for the next step towards independent living.

D. The operating methods and procedures to be used. We have five volunteer board members that are all retired or no longer work so all board members have plenty of time to supervise the running of the house. We have a total of eight security cameras that do record and that we can view from our cell phones or home computers at any time. All residents are required to pass random urine drug screening tests. All residents must attend a minimum of five 12 step meetings per week and have papers signed to verify they were in attendance.

E. Any other facts relevant to the proposed operation of the halfway house. We have been approved by the Pennsylvania Department of Military and Veteran Affairs to house women veterans who have completed their rehab programs.



BATHROOM, 1st Floor



BATHROOM, 2nd Floor



COMMON AREA, 2nd Floor



CLOTHING BANK, pic 2, Garage



FOYER, 9 Commercial Medication Lockers



REC/MULTI-PURPOSE ROOM, Basement



CLOTHING BANK, pic 1, Garage



BATHROOM, Basement



STAIRS, Constant Reminders of Recovery Like This Are All Throughout The House

Remember what you're here to recover and stay strong!

A minute is all it takes to get lost in the moment and forget why you're here. Stay focused on your recovery.

It's hard to stay motivated to work on your recovery, but every step you take is a step towards a better future.

Don't let your struggles define you. You are stronger than you think you are.

Remember, you're not alone. There are people who care about you and want to see you succeed.



TEAL BEDROOM, 2nd Floor



PINK BEDROOM, 2nd Floor



LIVINGROOM, seating for 15



BLUE BEDROOM, 2nd Floor



KITCHEN, pic 2



PURPLE BEDROOM, 1st Floor



KITCHEN, pic 1



DINING ROOM, pic 1



DINING ROOM, pic 2, seats 10

STEPS OF ACTIVE RECOVERY

MARTY MANNOR URINE DRUG SCREEN REPORT

Resident Name: _____

Date: _____

Collected By: _____

Time: _____ AM or PM

The specimen provided is my own and has not been substituted or adulterated.

Resident Signature: _____

Date: _____

TEST RESULTS:

DRUG NAME	SYMBOL	POSITIVE	NEGATIVE
Amphetamines	AMP		
Barbiturates	BAR		
Buprenorphine	BUP		
Benzodiazepine	BZO		
Cocaine	COC		
Ethyl Alcohol	ETG		
Fentanyl	FYL		
Synthetic Marijuana	K2		
Kratom	KRA		
Methamphetamine	MET/mAMP		
Methadone	MTD		
Ecstasy	MDMA		
Morphine	OPI/MOP		
Oxycodone	OXY		
Angel Dust/Ketamine	PCP		
Tricyclic Antidepressant	TCA		
Marijuana	THC		
Tramadol	TML		

Staff Signature: _____

Date: _____

RULES AND REGULATIONS

Title 28—HEALTH AND SAFETY

DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS

[28 PA. CODE CH. 717]

Standards for Drug and Alcohol Recovery House Licensure

[51 Pa.B. 7670]

[Saturday, December 11, 2021]

In accordance with section 2313-A of The Administrative Code of 1929 (Administrative Code) (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 which 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 final-omitted rulemaking 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 final-omitted rulemaking 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 (71 P.S. §§ 613.11—613.18).

This final-omitted rulemaking adds §§ 717.1—717.33.

Background

A drug and alcohol recovery house 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 (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 United States (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>). This

Commonwealth 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% of this Commonwealth'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 this Commonwealth 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 December 19, 2017 (P.L. 1187, No. 59) (Act 59 of 2017) to add subarticle XXIII-A(b) to the Administrative Code (71 P.S. §§ 613.11—613.18) 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 this final-omitted rulemaking 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 the 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 this final-omitted rulemaking and other standards within the drug and alcohol recovery house community. Section 2313-A identifies twelve specific areas the Department must include in this final-omitted rulemaking for the licensure of drug and alcohol recovery houses. The Department addressed those areas in the following sections:

- § 717.22(b)(2) (relating to beginning of residency) requires drug and alcohol recovery houses to have a policy that ensures that residents are informed of house rules, residency requirements and lease agreements.
- § 717.16 (relating to fiscal management) 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.

- § 717.17(b)(7) (relating to personnel management) requires drug and alcohol recovery houses to have policies regarding criminal background checks for operators and employees.
- § 717.25(b)(5) (relating to financial transactions) 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.
- § 717.30 (relating to safety and emergency procedures) requires drug and alcohol recovery houses to have policies and procedures addressing the safety and protection of residents.
- § 717.28(1) (relating to resident requirements) 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.
- § 717.28(2) requires drug and alcohol recovery houses to have policies requiring abstinence from alcohol and illicit drugs.
- § 717.24 (relating to medication control and self-administration) requires drug and alcohol recovery houses to have procedures regarding appropriate use and security of medication.
- § 717.30(c) and (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.
- § 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.
- § 717.32 (relating to complaints about drug and alcohol recovery houses) provides the Department's policies and procedures for managing complaints.
- § 717.27 (relating to notification to family member or emergency contact) 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 to protect the health and safety of residents in this Commonwealth 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. § 613.18) 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 (Pub.L. No. 101-336). 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 web site. The Department included this provision in § 717.29 (relating to physical plant standards).

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 or human services departments, or both, 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 (71 P.S. §§ 745.1—745.14).

Requirements

The following is a list of requirements for this final-omitted 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 final-omitted 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 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 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 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 §§ 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 §§ 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 adds this section to establish the scope for Chapter 717 regarding 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 adds 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 (71 P.S. § 613.12).

§ 717.3. Definitions

The Department adds this section to provide definitions for the purpose 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 adds 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 adds a definition of "volunteer."

The only mention of "hours of operation" in the original draft regulation was in § 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 § 717.8 (relating to provisional licensure).

§ 717.4. Exceptions

The Department adds 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 (relating to exceptions) 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 deleted the amendment to the similar provision in § 701.11 (relating to exceptions to this part).

§ 717.5. Revocation of exceptions

The Department adds 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 (relating to revocation of exceptions) 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 deleted the amendment to the similar provision in § 701.12 (relating to revocation of exceptions).

§ 717.6. Application and renewal

The Department adds 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 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 this section, 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 subsections (a) and (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 web site under section 2315-A of the Administrative Code (71 P.S. § 613.15).

Renewal of a full license is annual, in accordance with section 2314-A(a) of the Administrative Code (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 adds 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 (relating to full licensure) 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 1 year following the date it is issued.

§ 717.8. Provisional licensure

The Department adds 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 (relating to provisional licensure) 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 this section and receipt of the \$250 renewal fee.

§ 717.9. Restriction on license

The Department adds 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 (relating to restriction on licensure) to apply to drug and alcohol recovery houses.

§ 717.10. Right to enter and inspect

The Department adds 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 (relating to right to enter and inspect) to apply to drug and alcohol recovery houses.

§ 717.11. Notification of deficiencies

The Department adds 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 (relating to notification of deficiencies) 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 by means of 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 adds 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 (relating to refusal or revocation of license) to apply to drug and alcohol recovery houses.

§ 717.13. Hearings

The Department adds 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 (relating to hearings) 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 adds 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 (71 P.S. § 613.16(a)).

Section 2314A(c)(1)(iii) of the Administrative Code states that the Department shall establish "a fee for investigation of complaints."

This section will become effective 180 days after publication of this final-omitted rulemaking 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 to deem existing drug and alcohol recovery houses that have previously been inspected and that document compliance with this final-omitted rulemaking within 180 days after promulgation of this final-form rulemaking as licensed. Instead, all drug and recovery houses must submit applications and obtain licenses in compliance with this final-form rulemaking 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, "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 adds 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 NARR 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 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 renaming 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 this section. 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. For the Department to maintain accurate records for each house, this final-omitted rulemaking 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 this final-omitted rulemaking to require 6 hours of training within 6 months of hiring and annually thereafter.

The Department agrees with the suggested renaming of training areas and has revised this final-omitted rulemaking accordingly.

§ 717.16. Fiscal management

The Department adds 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 (for example, 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

Section 2313-A(2) of the Administrative Code requires that this final-omitted rulemaking include policies and procedures for management of funds received and expended by the recovery house. In the regulation submitted to IRRC in June 2021, the Department had required an annual financial audit to ensure that this Commonwealth'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 2 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 this section 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 of section 2313-A(2) of the Administrative Code 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. 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 adds 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

Section 2333(3) of the Administrative Code 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." Neither the statute nor the regulation requires that the results of a background check disqualify a staff person or volunteer. The Commonwealth 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, specifically 18 Pa.C.S. § 9125 (relating to use of records for employment). The Department understands that background checks may delay hiring of staff. According to the Pennsylvania Access to Criminal History (PATCH) web site, 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 this section.

§ 717.18. Training

The Department adds 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 cardiopulmonary resuscitation (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 1 year after hiring due to staff turnover.

Response

In response to the comments about burdensome training requirements, the Department deleted the time requirements for 6 hours of HIV/AIDS training and 4 hours of tuberculosis and sexually transmitted disease training as well as the requirement for "other health-related disease topics" trainings. The Department deleted 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 adds "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 1 year to 90 days.

§ 717.19. Resident rights

The Department adds 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 this final-omitted rulemaking 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 adds 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 the beginning of residency.

The Department has deleted the mention of a "medical and drug or alcohol history" in this section 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 adds 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 4 years following their ending or completion of residency.

§ 717.22. Beginning of residency

The Department adds 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 this final-omitted rulemaking.

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 subsection (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 adds 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 under

§ 717.22(a)(3) (relating to beginning of residency). 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 deletes the term "eviction" throughout this final-omitted rulemaking and replaced with "ending residency."

The Department updates subsection (a) to require that a notice of ending residency "include the reason and a timeframe."

§ 717.24. Medication control and self-administration

The Department adds 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. Under § 717.19(a)(6) (relating to residents rights), "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."

This final-omitted rulemaking 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 deletes the requirement that drug and alcohol recovery houses develop and implement policies and procedures for tracking medication.

§ 717.25. Financial transactions

The Department adds 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 adds the word "due" to subsection (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 adds 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 adds 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 the act of June 30, 2021 (P.L. 186, No. 35), which added section 2319-A to the Administrative Code (71 P.S. § 613.19) and is commonly referred to as Justin's Law.

§ 717.28. Resident requirements

The Department adds 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 adds this section to describe physical plant requirements for drug and alcohol recovery house licensure including compliance with the Americans with Disabilities Act of 1990 (Pub.L. No. 101-336), 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

This final-omitted rulemaking 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 adds 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 this Commonwealth 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 this Commonwealth. 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 this final-omitted rulemaking to require a minimum of two exits on every floor where there is a resident bedroom. The Department also changed this final-omitted rulemaking 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 adds 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).

This final-omitted rulemaking 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 IRRRC's comments, the Department adds subsection (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 web site at <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 adds 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 2 business days.

§ 717.33. Drug and alcohol recovery house registry

The Department adds 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, 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

This final-omitted rulemaking affects persons, businesses, and organizations that operate drug and alcohol recovery houses. However, this final-omitted rulemaking applies 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 this Commonwealth 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 this final-omitted rulemaking. 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 2 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 this final-omitted rulemaking. 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 2 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 4 years following the ending or completion of residency. Licensees will have to develop and maintain policies and procedures as required by this final-omitted rulemaking. 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 final-omitted rulemaking is being adopted without publication as a proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections

regarding this final-omitted rulemaking to Jordan Lewis, Policy Director, Department of Drug and Alcohol Programs, 2601 North 3rd Street, Harrisburg, PA 17110, (717) 736-7466, jorlewis@pa.gov. Comments will be reviewed and considered for any subsequent revision of this final-omitted rulemaking.

Sunset Date

There is no sunset date for this final-omitted rulemaking.

Effective Date

This final-omitted rulemaking will take effect upon publication in the Pennsylvania Bulletin, with the exception of § 717.14, which shall take effect 180 days after publication in the Pennsylvania Bulletin.

Contact Person

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Regulatory Review Act

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on March 1, 2021, the Department originally 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 Committee and Senate Health and Human Services Committee (Committees). On March 15, 2021, the Department withdrew and resubmitted the final-omitted rulemaking. The Department again withdrew the final-omitted rulemaking on April 9, 2021.

Under section 5.1(c) of the Regulatory Review Act, on June 14, 2021, the Department resubmitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the 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). IRRC met on August 24, 2021, at which time the regulation was disapproved. IRRC issued its disapproval order on September 4, 2021.

Under section 7(c) of the Regulatory Review Act (71 P.S. § 745.7(c)), on October 1, 2021, the Department delivered to IRRC and the Committees a revised final-omitted rulemaking and report in response to IRRC's disapproval order. Under section 7(c.1) of the Regulatory Review Act (71 P.S. § 745.7(c.1)), IRRC met on October 21, 2021, and approved the final-omitted rulemaking. Under section 7.1(d) of the Regulatory Review Act (71 P.S. § 745.7(d)), the final-omitted rulemaking was deemed approved by the committees on November 4, 2021.

Findings

The Department finds that:

(1) Under section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)) referred to as the Commonwealth Documents Law, a 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."

(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 this Commonwealth.

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

Order

The Department, acting under authorizing statute, orders that:

(a) The regulations of the Department, 28 Pa. Code, are amended by adding §§ 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 § 717.14, that shall take effect 180 days after publication in the Pennsylvania Bulletin.

JENNIFER S. SMITH,
Secretary

(Editor's Note: See 51 Pa.B. 7019 (November 6, 2021) for IRRC's approval order.)

Fiscal Note: 74-4. No fiscal impact; (8) recommends adoption.

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

Sec.

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- 717.30. Safety and emergency procedures.
- 717.31. Unusual incidents.
- 717.32. Complaints about drug and alcohol recovery houses.
- 717.33. Drug and alcohol recovery house registry.

§ 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.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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 all of 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 §§ 717.17—717.19, 717.22, 717.24—717.28, 717.30 and 717.31.

(3) An application fee of \$250.

(b) A licensee applying for renewal of a license shall submit to the Department all of 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 §§ 717.17—717.19, 717.22, 717.24—717.28, 717.30 and 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 (relating to provisional licensure).

(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 1 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; and

(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 in the license 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, 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, (Pub.L. No. 88-352).
- (3) Title I of the Americans with Disabilities Act of 1990, (Pub.L. No. 101-336).
- (4) The Age Discrimination in Employment Act of 1967, (29 U.S.C.A. §§ 621—634).

(b) The written policies and procedures must include all of the following:

- (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 all of the following:

- (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 all 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 all of 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 all of the following:

- (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 all of the following:

- (1) All records obtained under § 717.22 (relating to beginning of residency).
 - (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 4 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 4 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 all of the following:

(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 all of 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 all of the following:

(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 all of the following:

(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 Federal and State 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 all of the following:

(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 all of the following:

(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. The following apply:

(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 2 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. The following apply:

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

(2) The agreement must include all of the following:

(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; and

(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 (Pub.L. No. 101-336).

(b) Building interior, exterior and grounds.

(1) The licensee shall do all of the following:

(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; and

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

(d) Sleeping accommodations.

(1) Each drug and alcohol recovery house bedroom must have all of 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 meet all of the following requirements:

(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) (relating to safety and emergency procedures); or
 - (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 all of the following:
- (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 do all of the following:
- (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 do all of the following:
- (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; and

(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 all of the following:

(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 do all of the following:

(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 do all of the following:

(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) 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 do all of the following:

(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 all of 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 all of 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 3 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 1 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 2 business days.

(3) Will report complaints that allege abuse, neglect or a criminal violation to law enforcement within 2 business days.

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

(1) The Department will begin an investigation of a complaint that alleges a direct threat to the health or safety of a resident within 2 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 5 business days.

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

(f) The Department will provide a summary of its findings of an investigation of a complaint under subsection (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, all of the following:

(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 (relating to application and renewal).

(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.

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