



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Health And Human Resources

RULE TYPE: Legislative

TITLE-SERIES: 69-15

RULE NAME: RECOVERY RESIDENCE
CERTIFICATION AND ACCREDITATION
PROGRAM

CITE AUTHORITY: 16-59-2(g)

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

April L Robertson -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 69
LEGISLATIVE RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 15
RECOVERY RESIDENCE CERTIFICATION AND ACCREDITATION PROGRAM

§69-15-1. General.

1.1. Scope. – This rule establishes criteria for recovery residence certification, revocation, and reinstatement; contracting with the certifying agency; monitoring of the certifying agency and evaluation of the accreditation program; and a grievance procedure for recovery residents. The purpose of this rule is to safeguard the rights and well-being of recovery residents by requiring certain standards for voluntary recovery residence certification and a clear process for resident grievances.

1.2. Authority. – W. Va. Code §16-59-2(g).

1.3. Filing Date. –

1.4. Effective Date. –

1.5. Sunset Provision. – This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

§69-15-2. Definitions.

2.1. “Act” means the provisions of W. Va. Code §16-59-1, et seq.

2.2. “Certificate of Compliance” means a certificate that is issued to a recovery residence by the department’s certifying agency.

2.3. “Certified Recovery Residence” means a recovery residence that holds a valid certificate of compliance.

2.4. “Department” means the West Virginia Department of Health and Human Resources.

2.5. “Recovery Residence” means a single-family, drug-free, alcohol-free residential dwelling unit, or other form of group housing, that is offered or advertised by any person or entity as a residence that provides a drug-free and alcohol-free living environment with the purpose of promoting sustained, long-term recovery from substance use disorder. Recovery residences shall be certified pursuant to National Alliance for Recovery Residences (NARR) standards.

2.6. “Bureau” means the Bureau for Behavioral Health within the West Virginia Department of Health and Human Resources.

2.7. “Drug-free” means that residents shall not use or possess illicit drugs or prescription drugs not prescribed to them. It does not mean a person’s over-the-counter or prescription medication, including psychotropic medication, naloxone, and medication-assisted treatment (MAT).

2.8. "Medication-Assisted Treatment" or "MAT" means the use of FDA-approved medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

2.9. "Substance Use Disorder" or "SUD" means the recurrent use of alcohol or drugs that causes clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home.

2.10. "Supportive Services" are services provided to recovery residents by recovery residence staff or licensed professionals that include, but are not limited to, the following:

2.10.1. Vocational services;

2.10.2. Peer support;

2.10.3. Skills training;

2.10.4. Housing support; or

2.10.5. Community resource referral.

§69-15-3. Certifying Agency.

3.1. The bureau shall contract with a certifying agency to administer the recovery residence voluntary certification program for drug-free and alcohol-free recovery residences as follows:

3.1.1. The certifying agency shall use standards determined by NARR or a similar entity;

3.1.2. The contract may last up to two years and may be renewed based upon satisfactory accreditation program performance; and

3.2. The bureau shall monitor the certifying agency as follows:

3.2.1. Review the certifying agency's certification procedures;

3.2.2. Review documentation of each certified recovery residence's compliance with NARR standards and those in section four of this rule;

3.2.3. Receive appeals by recovery residences of certificate revocation by the certifying agency, as described in section five of this rule; and

3.2.4. Receive appeals by recovery residents of their grievances against recovery residences to the certifying agency, as described in section six of this rule and create a procedure to hear and attempt to resolve any recovery resident's grievances.

§69-15-4. Minimum Standards for Recovery Residence Certification.

4.1. The certifying agency shall establish and implement an accreditation program for drug-free and alcohol-free recovery residences in accord with W. Va. Code §16-59-1, et seq.

4.2. To receive a certificate of compliance, a recovery residence must meet or exceed the current NARR standards as well as additional requirements in the Act.

4.3. A certificate of compliance should specify the following:

4.3.1. Name of the recovery residence;

4.3.2. Business name of the organization or entity that owns and operates the recovery residence;

4.3.3. Number of beds permitted under the certificate;

4.3.4. Gender designation of the beds;

4.3.5. Address of the recovery residence;

4.3.6. Type of certification (i.e., initial or renewal);

4.3.7. Level of recovery support provided;

4.3.8. Duration of the certificate of compliance;

4.3.9. Date of issue; and

4.3.10. Certificate number.

4.4. Certified recovery residences must apply for recertification every two years.

4.5. The certifying agency shall update a list of certified recovery residences at least quarterly, post the list on its website, and share the list with the department, bureau, certifying agency's board of directors, and other stakeholders. The list shall include each certified recovery residence's certificate of compliance specifications, mailing address, phone number, contact person, and website (if available).

4.6. This rule does not permit a structure that would not be normally classified as a single-family dwelling to be exempt from the state building code or fire code.

§69-15-5. Procedure for Revocation and Reinstatement of Recovery Residence Certification.

5.1. The certifying agency may revoke a recovery residence's certificate of compliance for the following reasons:

5.1.1. The recovery residence administrator provides false or misleading information to the certifying agency at any time;

5.1.2. Monitoring or inspection shows the recovery residence is in violation of a NARR standard, the Act, or other requirements of the certifying agency;

5.1.3. The recovery residence fails to cooperate with the department, bureau, or certifying agency investigation of a complaint; or

5.1.4. Resident complaints or grievances indicate safety concerns, discrimination, abuse, or other practices detrimental to the well-being of residents.

5.2. The certifying agency shall send written notice to the recovery residence of revocation of a certificate of compliance. The written notice shall include the following:

5.2.1. Effective date of the revocation;

5.2.2. The basis for revocation of the certificate of compliance;

5.2.3. The locations to which the revocation applies;

5.2.4. Remedial measures the recovery residence may take, if any, for the certifying agency to consider reinstatement of the certificate of compliance; and

5.2.5. Steps to request reconsideration or appeal of the decision of the certifying agency.

5.3. Upon receiving a request for reconsideration, the certifying agency shall reinstate the certificate of compliance or deny the request for reinstatement in writing within 30 days. This written notice shall include the following:

5.3.1. Effective date of reinstatement of the certificate of compliance, if applicable;

5.3.2. Reasons for denial of the request for reconsideration, if applicable; and

5.3.3. The option of the recovery residence to appeal the denial to the Board of Review of the Department's Office of Inspector General, pursuant to W. Va. Code §9-2-6(13), within 60 days of the denial notice.

5.4. The certifying agency and recovery residence shall work together to address the needs of residents affected by a revocation of the recovery residence's certificate of compliance.

§69-15-6. Residents' Rights.

6.1. Each recovery residence shall establish and adhere to a written policy, consistent with this rule series, regarding the rights and responsibilities of residents, which shall be explained to residents at the time of admission. Receipt of the rights by the resident shall be indicated by a signature and date by the resident on a line for that purpose on the admission agreement.

6.2. The rights and responsibilities of residents shall be posted prominently in the recovery residence.

6.3 Each residence shall establish an accessible, written grievance procedure for resolving residents' concerns or complaints that is explained to residents at the time of admission and posted in a prominent, public place on each floor of the residence. The grievance procedure shall include at a minimum, time frames, a process for responding to residents in writing within 10 calendar days, and the next steps a resident may take if the complaint or grievance is not resolved to the resident's satisfaction at the recovery residence level.

6.3.1. The residence shall assist a resident with grievances and recommended changes in policies without fear of reprisal, interference, punishment, or discrimination.

6.3.2. The resident may submit any grievance he or she finds unsatisfactorily resolved by the recovery residence to the certifying agency, in writing, within 10 calendar days after receiving the recovery residence's decision.

6.3.3. The resident may submit any grievance he or she finds unsatisfactorily resolved by the certifying agency to the bureau for a final decision of his or her grievance. Any grievance submitted to the bureau must be submitted in writing within 10 calendar days from the final decision of the certifying agency and mailed to the bureau's current address. Resident's grievances submitted to the bureau must include all writings submitted to and received from the recovery residence and certifying agency.

§69-15-7. Administrative Due Process.

7.1. Before any certificate of compliance is denied, suspended, or revoked, written notice shall be given to the owner or owners of the recovery residence, stating the grounds of the denial, suspension, revocation, or penalty and the date set for any enforcement action.

7.1.1. The notice shall be sent by certified mail to the owner or owners at the owner's business address.

7.1.2. Within 30 days of receipt of the notice, the owner or owners may submit a request for an administrative hearing before the Department's Board of Review or an informal meeting with the bureau to address and resolve the findings.

7.1.3. The recovery residence and its owner or owners shall be entitled to be represented by legal counsel at the informal meeting or at the hearing at their own expense.

7.1.4. All of the pertinent provisions of W. Va. Code §29A-5-1, *et seq.*, and W. Va. Code R. §69-1-1, *et seq.*, shall apply to and govern any hearing authorized by this rule.

7.1.5. If an owner fails to request a hearing within the time frame specified, he or she shall be subject to the full penalty imposed.

7.1.6. The filing of a request for a hearing does not stay or supersede enforcement of the final decision or order of the Secretary. The Secretary may, upon good cause shown, stay such enforcement.

§69-15-8. Administrative Appeals and Judicial Review.

8.1. Any owner of a recovery residence who disagrees with the final administrative decision as a result of the hearing may, within 30 days after receiving notice of the decision, appeal the decision to the Circuit Court of Kanawha County or in the county where the petitioner resides or does business.

8.1.1. The filing of a petition for appeal does not stay or supersede enforcement of the final decision or order of the Secretary. An appellant may apply to the circuit court for a stay of or to supersede the final decision or order.

8.1.2. The Circuit Court may affirm, modify, or reverse the final administrative decision. The owner or owners, or the Secretary may appeal the court's decision to the Supreme Court of Appeals.