



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Health And Human Resources TITLE-SERIES: 69-15
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 69-15 Recovery Residence Certification and Accreditation Program

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code §16-59-2

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code §16-59-2(b)(c) and W. Va. Code §16-59-2(g)

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/31/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/30/2024

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

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. This rule further establishes the mandatory registration of all recovery residences operating within the state with the Office of Health Facility Licensure and Certification, establishes fees for registrations, creates penalties for failing to register, and provides for due process. 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.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule change is submitted to get the rule in line with the changes to the West Virginia Code contained in SB475. This includes changing definitions, adding a process for recovery residence registration with OHFLAC, permitting the certifying agency to serve a notice of a deficiency that causes an "immediate jeopardy," and other clean up and clarifying changes.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The total (non-Oxford) Recovery Residences currently operating in WV is 240, with an additional 233 Residences currently in process. As the initial registration fee per facility is \$250, this results in estimated revenue of \$119,500 (\$250 fee x 473 facilities) for FY 2025. An annual renewal registration fee will be collected and is adjusted annually based on the Consumer Price Index. Based on current data, we anticipate an increase in the renewal registration fee for FY 2026 and after.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

The fund information for the revenues associated with the Recovery Residence Rule has not been determined. As such, how these revenues will impact the various revenue types (special, general, etc.) is also unknown at this time.

The Director, in consultation with the Inspector General, may impose a civil money penalty to address any violations or penalties. Additionally, a civil monetary penalty of up to \$20,000 per day may be assessed for unregistered Residences. At this time, we are unable to project any violations or deficiencies prior to complaint investigations, the anticipated revenue and economic impact on the associated special revenue account cannot be determined.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

Although the revenues from registration fees resulting from this Rule is estimated at \$119,500, the overall economic impact of this Rule cannot be definitively stated as the amount of expenses required to implement, manage, and maintain the Recovery Residence Program and to provide clerical and financial support is also unknown. Additionally, an estimate of costs cannot be determined for complaint investigations, report writing, plan of correction reviews, and calculating CMPs due to uncertainties in the scope and severity of the violations or deficiencies.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	630,260	612,060 630,206
Personal Services	0	496,115	496,115
Current Expenses	0	134,145	115,945 134,145
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	Unknown at this time	Unknown at this time

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The estimated cost of this legislation to the Office of Inspector General's (OIG) Office of Health Facility Licensure and Certification (OHFLAC) is \$630,260 in FY 2025 and between \$612,060 and \$630,206 upon full implementation, dependent upon equipment replacement and training as needed. It is anticipated that OHFLAC will need one .5 FTE for a HHR Program Manager 1 position at \$43,581 (State average salary \$64,564 * .5 = \$32,282 and fringe benefits \$22,597 * .5 = \$11,299), four FTE Health Facilities Surveyors 1 at \$296,188 (State average salary \$54,850 * 4 = \$219,400 and fringe benefits \$19,197 * 4 = \$76,788), one HHR Associate at \$55,709 (DHHR average salary \$41,266 and fringe benefits \$14,443), and one Epidemiologist 2 at \$100,637 (State average salary \$74,546 and fringe benefits \$26,091). Current expense for the new positions is estimated at \$134,145; including

rent, utilities, office supplies, training at \$6,500, travel at \$115,945 ($\$26,238 * 4 = \$104,952$; and $\$21,986 * .5 = \$10,993$).

The Program Manager 1, HHR Associate, and Epidemiologist 2 would be housed at the OHFLAC office. The four Health Facilities Surveyor 1 positions will be remote. The PM 1 position exists and would split time between Recovery Residence and other substance use disorder related programs under OHFLACs purview.

As we do not know how many facilities and/or complaints may be received this estimate is based on our assumption of an average of 5 to 10 Recovery Residences per county.

Revenues are unknown at this time, as we do not have a definitive number of facilities located within West Virginia at this time, that will be required to register.

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

Yes

Virginia M Payne -- 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~~ REGISTRATION 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. This rule further establishes the mandatory registration of all recovery residences operating within the state with the Office of Health Facility Licensure and Certification, establishes fees for registrations, creates penalties for failing to register, and provides for due process. 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(b)(c) and W. Va. Code §16-59-2(g).

1.3. Filing Date. – ~~April 29, 2021.~~

1.4. Effective Date. – ~~April 30, 2021.~~

1.5. Sunset Provision. – This rule shall terminate and have no further force or effect on ~~August 1, 2026.~~ August 1, 2030.

§69-15-2. Definitions.

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

2.1. Definitions incorporated by reference. -- Those terms defined in W. Va. Code §16-59-1 are incorporated herein by reference.

~~2.1. 2.2. “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.~~

2.3. “Bureau” means the Bureau for Behavioral Health within the West Virginia Department of Human Services.

~~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.~~

2.4. "Certifying Agency" means the entity contracted to certify recovery residences pursuant to W. Va. Code § 16-59-2(a).

2.5 "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).

2.6. "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.~~ 2.7. "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.~~ 2.8. "Supportive Services" are services provided to recovery residents by recovery residence staff or licensed or appropriately credentialed professionals that include, but are not limited to, the following:

~~2.10.1.~~ 2.8.1. Vocational services;

~~2.10.2.~~ 2.8.2. Peer support;

~~2.10.3.~~ 2.8.3. Skills training;

~~2.10.4.~~ 2.8.4. Housing support; or

~~2.10.5.~~ 2.8.5. 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 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~~ eight 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 at least every two years or more frequently as required by the certifying agency.

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, has a deficiency that creates an Immediate jeopardy, 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, via certified mail, 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; and

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.~~

5.3. If the certifying agency finds a deficiency that creates an Immediate jeopardy:

5.3.1. The certifying agency may serve the notice of deficiency in person;

5.3.2. The certifying agency shall provide the recovery residence operator with a notice of deficiency, at the time of the certification visit, and the recovery residence shall immediately take actions to correct the listed deficiencies before the certifying agency departs the premises.

5.3.2.a. If the operator is unable to correct all of the listed deficiencies prior to the certifying agency departing the premises, then the certifying agency has the authority to revoke any applicable certification immediately and give the operator of the recovery residence up to five calendar days to transfer existing residents to another certified recovery residence.

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. Registration of Recovery Residences

6.1. No person, partnership, association, or corporation may operate a recovery residence in the state of West Virginia without first obtaining a registration pursuant to W. Va. Code §§16-59-1, et seq. and this rule.

6.2. A registration is valid only for the location and persons named and described in the application.

6.3. Each recovery residence location shall be registered separately, regardless of whether the recovery residence is operated under the same business name or management as another recovery residence.

6.4. The Office of Health Facility Licensure and Certification shall make an application form publicly available on its website that includes a request for the following information:

6.4.1. The identity, address, and telephone number of the applicant;

6.4.2. The name, business address, and telephone number of the contact person for the applicant;

6.4.3. When applicable, the federal employer identification number for the applicant;

6.4.4. Whether the recovery residence is certified by the certifying agency;

6.4.5. Whether the recovery residence accepts minor children of participants or individuals under the age of 18;

6.4.6. A copy of the recovery residence application and agreement; and

6.4.7. The data required in section 7 of this rule.

6.5. Term and fee.

6.5.1. The terms of registration shall be one year from the date of issuance.

6.5.2. All applicants for an initial or renewal registration shall be accompanied by a non-refundable fee in the amount required in W. Va. Code §16-59-4. In addition to the set fee, and the annual renewal fee shall be adjusted on the first day of June of each year to correspond with increases in the consumer price index. The Office of Health Facility Licensure and Certification shall post the annual consumer price index increases on its website. The base amounts for initial and renewal fees are stated in W. Va. Code §16-59-4.

6.6. If the ownership of a recovery residence changes, the new owner shall notify the Director within 10 calendar days and immediately apply for a new registration. The new owner's application for recovery residence is valid for three calendar months from the date the application is received by the Director.

6.7. The recovery residence shall notify the Director within 30 calendar days prior to a change in name or physical address of the recovery residence and request an application form for a registration amendment.

6.8. The Director or his or her designee may enter the premises of any place if the Director has reasonable belief that it is being operated or maintained as a recovery residence without a registration.

6.9. If the owner, staff member, or other person in charge of a recovery residence or any other place believed to being operated as an unregistered recovery residence based upon reasonable belief, refuses entry pursuant to this rule, the Inspector General shall petition the Circuit Court of Kanawha County or the county in which the recovery residence is located for an inspection warrant.

6.10. If the Director finds on the basis of an inspection that any person, partnership, association, or corporation is operating as a recovery residence without a registration, the recovery residence shall apply for a registration within 10 calendar days.

6.11. A recovery residence that fails to apply for registration is subject to the penalties established in this rule.

6.12. A recovery residence shall surrender an expired, revoked, or otherwise invalid registration to the Director upon written demand.

6.13. Registration.

6.13.1. The Director shall issue a registration, as appropriate, to an applicant when the Director determines an applicant has submitted a complete application and paid the required registration fee.

6.13.2. The registration may be in paper or electronic form, is nontransferable, and shall prominently list the expiration date of the registration.

6.13.3. A list of all recovery residences shall be made publicly available on the Office of Health Facility Licensure and certification website.

6.13.4. Initial Registration.

6.13.4.a. Any existing recovery residence, as of the effective date of W. Va. Code §§16-59-1, et seq., which is also certified by the certifying agency and is in good standing, may continue to operate and shall have until three calendar months from the effective date of this rule to apply for initial registration.

6.13.4.b. Any existing recovery residence that is not certified or is not in good standing with the certifying agency, shall apply for initial registration within 10 calendar days from the effective date of this rule.

6.13.4.c. A new recovery residence shall apply for an initial registration not less than 30 calendar days and not more than 60 calendar days before the recovery residence begins operations.

6.13.5. Renewal Registration. A recovery residence shall submit an application for a renewal registration with the Director not less than 60 calendar days prior to the expiration of the current registration. After the Director receives a complete renewal application with the required fee, the existing registration shall not expire until the new registration has been issued or denied. The West Virginia Department of Human Services must be copied on the complete renewal application.

6.14. Inspections; Complaints.

6.14.1. The Director may conduct unannounced inspections of a recovery residence for cause if the Director has received a complaint that is under his or her authority to investigate or has reason to believe that the recovery residence may be operating in violation of federal or state statutes, rules, or regulations. If the recovery residence is certified and the complaint involves a standard covered under the certifying agency standard, the complaint will be forwarded to the certifying agency.

6.14.2. Any person may file a complaint with the Director alleging violation of applicable laws, rules, or regulations by a recovery residence. A complaint shall identify the recovery residence by name and state the nature of the complaint.

6.14.3. At the time of any onsite investigation activity, the investigator shall notify the contact person identified in the application for the recovery residence of the general reason for the investigation.

6.14.4. Within 15 working days of the investigation, the Director shall provide to the contact person identified in the application for the recovery residence a written report of the results of the investigation. The report shall specify any deficiency found and the rule that forms the basis for the violation.

6.14.5. Within 10 working days after receipt of the inspection report, the contact person identified in the application for the recovery residence shall submit to the Director for approval a written plan to correct all deficiencies that are in violation of section six of this rule. The plan of correction shall specify:

6.14.5.a. Any action taken, or procedures proposed to correct the deficiencies and prevent their reoccurrence;

6.14.5.b. The date of completion of each action taken or to be taken; and

6.14.5.c. The signature of the contact person identified in the application for the recovery residence.

6.14.6. The proposed plan of correction shall be approved, modified, or rejected by the Director in writing. The recovery residence may make modifications to the plan at a later date in conjunction with the Director.

6.14.7. The Director shall state the reasons for rejection or modification of any plan of correction.

6.14.8. The contact person identified in the application for the recovery residence shall submit a revised plan of correction to the Director within 10 working days of receipt of a rejection by the Director.

6.14.9. The recovery residence shall immediately correct a violation that severely risks the health, safety, or welfare of a resident.

6.14.10. The Director shall determine if satisfactory corrections have been made and advise the recovery residence of any compliance or continued deficiencies in writing.

6.14.11. The Director may provide consultation to the recovery residence in obtaining compliance with this rule.

6.14.12. The Director, in consultation with the Inspector General, may impose a civil money penalty, revoke a registration, or take such other action as deemed appropriate to address any violations or deficiencies. In the event the Director, in consultation with the Inspector General, determines that the continued operation of a recovery residence is a threat to the health, safety, and welfare of its residents, the Director, in consultation with the Inspector General, may issue an order immediately closing the recovery residence pursuant to the procedures stated in section six of this rule.

6.14.13. Upon completion of the investigation, the Director shall notify the complainant whether the allegations have been substantiated and how to obtain a copy of the report. If the complaint was made anonymously, no such notice shall be sent.

6.14.14. The Director shall keep confidential any information that could reasonably lead to the identification of a complainant and of any patient involved in the complaint or investigation. The Director shall not disclose such information without the written consent of the complainant or resident. The Director shall delete any identifying information before disclosure of investigative information to the public.

6.14.15. If a complaint becomes the subject of a judicial proceeding, nothing in this rule prohibits the disclosure of information that would otherwise be disclosed in judicial proceedings.

6.15. Inspection Reports and Records.

6.15.1. The Director shall keep on file a report of any inspection, survey, or investigation of a recovery residence.

6.15.2. Information in reports or records shall be available to the public except for the following:

6.15.2.a. Information regarding complaints and subsequent investigations that are deemed confidential by any provision of section six of this rule or applicable state or federal laws;

6.15.2.b. Information of a personal nature from a resident or personnel file; or

6.15.2.c. Information required to be kept confidential by state or federal law.

6.15.3. The Director will not make a report public until the recovery residence has the opportunity to review the report, submit a plan of correction, and have that plan of correction approved by the Director.

6.16. Denial and Revocation of Registration.

6.16.1. A recovery residence may appeal the denial of an initial or renewal registration pursuant to section 6.19.

6.16.1.a. The Director, in consultation with the Inspector General, may deny an application for an initial or renewal registration or revoke an existing registration if:

6.16.1.a.1. The Director, in consultation with the Inspector General, determines that the application is deficient in any respect;

6.16.1.a.2. The Director, in consultation with the Inspector General, determines that fraud or other illegal action has been committed by the operators of the recovery residence;

6.16.1.a.3. The recovery residence will not be or is not being operated in accordance with federal or state standards, laws, and rules;

6.16.1.a.4. The recovery residence conducts practices that jeopardize the health, safety, and welfare of a resident;

6.16.1.a.5. The recovery residence has made misrepresentations in obtaining certification or registration; and

6.16.1.a.6. The recovery residence will not permit an inspection or survey to proceed or will not permit timely access to records or information deemed relevant by the Director.

6.16.1.b. If the Director, in consultation with the Inspector General, determines not to issue a registration, the Director shall notify the applicant in writing of the denial and the basis for the decision. Following the denial, an existing recovery residence must follow closure procedures in this rule, including notification to existing residents.

6.17. Penalties.

6.17.1. A civil monetary penalty of up to \$20,000 a day may be assessed against an owner who operates, owns, or manages an unregistered recovery residence. Each day of the continuing violation after the civil monetary penalty is assessed may be considered a separate violation.

6.17.2. If the recovery residence has not applied for registration within 30 calendar days from the date of receipt of the initial notice, the Director shall notify the certifying agency to revoke the recovery residence's certificate of compliance, issued pursuant to W. Va. Code §16-59-2 and herein provided, for non-compliance with this section.

6.17.3. If the recovery residence has not applied for registration within 30 calendar days from the date of receipt of the initial notice, and if such recovery residence does not have a certificate of compliance from the certifying agency, then the Director shall issue a closure notice to the recovery residence for non-compliance.

6.18. Notwithstanding the existence or pursuit of any other remedy, the Inspector General may, in the manner provided by law, maintain an action in the name of the State for an injunction against any person, partnership, association, or corporation to restrain or prevent the establishment, conduct, management, or operation of any recovery residence or violation of any provisions of section six of this rule without first obtaining a registration therefore in the manner hereinbefore provided. The Inspector General may also seek injunctive relief if the establishment, conduct, management, or operation of any recovery residence, whether registered or not, jeopardizes the health, safety, or welfare of any or all of its residents.

6.19. Notice and Due Process.

6.19.1. Notice required by section six of this rule for any penalty, including, but not limited to a denial or revocation of a registration by the Office of Health Facility Licensure and Certification, shall be provided by the Director, in consultation with the Inspector General, in writing, stating the grounds of the denial, revocation, or penalty and the date set for any enforcement action.

6.19.2. The notice shall be sent by certified mail by the certifying agency to the individual identified in the application by the recovery residence to receive such notices.

6.19.3. Within 10 calendar days of receipt of the notice, the owner or owners of the recovery residence may submit a request for an informal meeting with the Director or an administrative hearing before the Board of Review.

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

6.19.5. 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 section six of this rule.

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

6.19.7. The filing of a request for an informal meeting or an administrative hearing does not stay or supersede enforcement of the action taken by the Director. The Director, in consultation with the Inspector General, may, upon good cause shown, stay such enforcement.

6.20. Administrative Appeals and Judicial Review.

6.20.1. Any party who disagrees with the final administrative decision by the Board of Review as a result of an administrative hearing, may within 30 calendar days after receiving notice of the decision, appeal the decision of the Board of Review to the West Virginia Intermediate Court of Appeals.

6.20.2. The filing of a petition for appeal does not stay or supersede enforcement of the final decision or order of the Director. An appellant may apply to the West Virginia Intermediate Court of Appeals for a stay of or to supersede the final decision or order.

6.20.3. The West Virginia Intermediate Court of Appeals may affirm, modify, or reverse the final administrative decision. The owner or owners, or the Inspector General, may appeal the court's decision to the West Virginia Supreme Court of Appeals.

§69-15-7. Collection of Data from Certified Recovery residences

7.1. All recovery residences shall annually submit the following data to Office of Health Facility Licensure and Certification along with their renewal application:

7.1.1. The name, date of birth, and previous address of each individual resident that resided in the recovery residence in the previous calendar year;

7.1.1.a. If the resident has a child, spouse, or other relative that is also staying in the recovery residence, the name, date of birth, and previous address of that person shall also be provided.

7.1.2. The state residency or citizenship of each individual resident;

7.1.3. Whether the resident is receiving substance use disorder treatment and the name of the treatment provider;

7.1.4. The specific source of all referrals the recovery residence received;

7.1.5. The number of hours the resident volunteered or worked for any business, organization, or other entity as a condition or part of the resident's stay at the recovery residence, the hourly rate the resident is paid for any such work, and the total amount of payments or benefits received from the resident's work;

7.1.6. The monthly rent the resident paid, any rent paid by a third party or outside source, and any rent reductions, including but not limited to, no rent or deferred rent, the resident received for working or volunteering, or any other reasons;

7.1.7. The length of the resident's stay and, if known, where the resident went after leaving the residence, and reason the resident left; and

7.1.8. Any other information the Director of the Office of Health Facility Licensure and Certification may require to analyze the performance of the recovery residence and determine if patient brokering, human trafficking, or other criminal activity is occurring.

7.2. The recovery residence shall submit the data in a form prepared by the Office of Health Facility Licensure and Certification or in data collection system approved by the Office of Health Facility Licensure and Certification. The recovery residence shall copy the Department of Human Services on its data submission.

~~§69-15-6.~~ **§69-15-8. Certified Recovery Residents' Rights.**

~~6-1.~~ 8.1. Each certified 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.~~ 8.2. The rights and responsibilities of residents shall be posted prominently in the certified recovery residence.

~~6-3.~~ 8.3. Each certified recovery 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.~~ 8.3.1. The certified residence shall assist a resident with grievances and recommended changes in policies without fear of reprisal, interference, punishment, or discrimination.

~~6-3-2.~~ 8.3.2. 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~~ calendar business days after receiving the recovery residence's decision.

~~6.3.3.~~ 8.3.3. 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.~~ §69-15-9. Administrative Due Process of Certification.

~~7.1.~~ 9.1. Before any certificate of compliance is ~~denied~~, suspended or revoked by the certifying agency, 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.~~ 9.1.1. The notice shall be sent by certified mail to the owner or owners at the owner's business address.

~~7.1.2.~~ 9.1.2. Within 30 calendar days of receipt of the notice, the owner or owners may submit a request for an administrative hearing before the ~~Department's~~ Office of the Inspector General's Board of Review or an informal meeting with the Bureau to address and resolve the findings.

~~7.1.3.~~ 9.1.3. 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.~~ 9.1.4. 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.~~ 9.1.5. 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.~~ 9.1.6. The filing of a request for a hearing does not stay or supersede enforcement of the final decision or order of the department Secretary. The department Secretary may, upon good cause shown, stay such enforcement.

~~§69-15-8.~~ §69-15-10. Administrative Appeals and Judicial Review of Certification Revocation.

~~8.1.~~ 10.1. Any owner of a recovery residence who disagrees with the final administrative decision as a result of the hearing may, within 30 calendar 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.~~ West Virginia Intermediate Court of Appeals.

~~8.1.1.~~ 10.1.1. The filing of a petition for appeal does not stay or supersede enforcement of the final decision or order of the department Secretary. An appellant may apply to ~~the circuit court~~ the West Virginia Intermediate Court of Appeals for a stay of or to supersede the final decision or order.

~~8.1.2.~~ 10.1.2. ~~The Circuit Court~~ The West Virginia Intermediate Court of Appeals may affirm, modify, or reverse the final administrative decision. The owner or owners, or the department Secretary may appeal the court's decision to the Supreme Court of Appeals.