



Chapter 260. Certified Recovery Residences

12VAC35-260-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, except when the context clearly indicates otherwise:

"Abuse" means any act or failure to act by an employee or an individual in a position of authority in a recovery residence certified by the department that was performed or was failed to be performed knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological harm, injury, or death to a resident of a recovery residence. Examples of abuse include acts such as:

1. Rape, sexual assault, or other criminal sexual behavior;
2. Assault or battery;
3. Use of language that demeans, threatens, intimidates, or humiliates the person; and
4. Misuse or misappropriation of the person's assets, goods, or property.

"Certification list" means the list of certified recovery residences maintained by DBHDS.

"Certification report" means the report of findings issued by the department that notes whether there is noncompliance with any applicable regulation during an initial or ongoing review, inspection, or complaint investigation. The certification report describes the noncompliance and requests the recovery residence to submit a corrective action plan for each regulatory violation cited.

"Corrective action plan" means the recovery residence's pledged plan of action in response to cited areas of noncompliance documented by the department. The corrective action plan includes dated descriptions of the corrective actions the recovery residence will take to correct the deficient practice and addresses processes, policies, procedures, and protocols to ensure compliance with the regulation in the future and to help minimize the possibility of deficiencies.

"Credentialing entity" means, as defined by § 37.2-431.1 of the Code of Virginia, a nonprofit organization that develops and administers professional certification programs according to standards of the National Alliance for Recovery Residences or standards endorsed by Oxford House, Inc.

"DBHDS" or "the Department" means the Virginia Department of Behavioral Health and Developmental Services.

"Exploitation" means the misuse or misappropriation of a resident's assets, goods, or property. Exploitation is a type of abuse. (See § 37.2-100 of the Code of Virginia.) Exploitation also includes the use of a position of authority to extract personal gain from a resident.

"Level of support" means, as defined by § 37.2-431.1 of the Code of Virginia, the level of support and structure that a recovery residence provides to residents, as specified in the standards of the National Alliance for Recovery Residences.

"Operator" means the owner of a recovery residence or his designated agent who is responsible for operation of the recovery residence under the provisions of this chapter.

"Recovery residence" means, as defined by § 37.1-431.1 of the Code of Virginia, a housing facility that provides alcohol-free and illicit-drug-free housing to individuals with substance abuse disorders and individuals with co-occurring mental illnesses and substance use disorders that does not include clinical treatment services.

"Resident brokering" means an illegal practice in which a recovery residence or a recovery residence operator offers or pays any remuneration directly or indirectly, in cash or in kind, in return for referring a resident or residents to the residence.

"Serious injury" means any injury resulting in bodily hurt, damage, harm, or loss that requires medical attention by a licensed physician, doctor of osteopathic medicine, physician assistant, or nurse practitioner.

12VAC35-260-20. Recovery residence.

~~A. Any person, nonprofit organization, or business entity seeking to operate a recovery residence under this chapter shall for each location (i) meet the qualifications, policies, and practices of a credentialing entity and hold a credential, accreditation, or charter from the Virginia Association of Recovery Residences or Oxford House, Inc.; and (ii) be certified by DBHDS.~~

~~B. A recovery residence seeking to be certified by DBHDS shall:~~

- ~~1. Submit a completed application on a form provided by DBHDS;~~
- ~~2. Provide evidence of accreditation by a charter from or membership in a credentialing entity listed in this section; and~~

~~3. Provide evidence that the recovery residence complies with any minimum square footage requirements related to beds and sleeping rooms established by the credentialing entity or the square footage requirements set forth in § 36-105.4 of the Code of Virginia, whichever is greater.~~

~~C. Each recovery residence shall report the following information concerning deaths and serious injuries to DBHDS in a manner prescribed by DBHDS within 48 hours of discovery. All deaths that occur as a result of illness or injury occurring when the individual was in a recovery residence shall be reported regardless of the location where the death occurs. All reports of death and serious injuries shall include:~~

- ~~1. Date and place of the death or serious injury;~~
- ~~2. Nature of the injuries; and~~
- ~~3. Circumstances of the death or serious injury.~~

~~D. Notwithstanding the provisions of subsection B of this section, DBHDS may issue a six-month conditional certification to an applicant that has indicated an intent to receive accreditation by or membership in a credentialing entity.~~

- ~~1. The maximum term of a conditional certification issued under this subsection shall be six months.~~
- ~~2. At the discretion of DBHDS, a conditional certification may be renewed once, for a period not to exceed three months, if the recovery residence is not able to demonstrate compliance with all certification regulations but demonstrates progress toward compliance.~~
- ~~3. In no case shall the total period of conditional certification exceed nine successive months.~~

12VAC35-260-30. List of recovery residences.

A. DBHDS shall maintain a list of certified and conditionally certified recovery residences on its website.

B. DBHDS shall monitor ~~recovery residences~~ credentialing entities for regulatory compliance and shall consult with the credentialing entities to keep the list of recovery ~~homes~~ residences up to date.

C. DBHDS shall monitor recovery residences for regulatory compliance. DBHDS shall ensure decertified residences are removed from the list of recovery residences to keep the list of residences up to date.

12VAC35-260-40. Disclosures, restrictions, and violations.

A. No person shall operate a recovery residence or advertise, represent, or otherwise imply to the public that a recovery residence or other housing facility is certified by DBHDS unless such recovery residence or other housing facility has received certification from DBHDS. Violation of this subsection is a Class 1 misdemeanor.

~~B. Any recovery residence that fails to maintain the requirements for certification by DBHDS as required by this chapter shall have the certification revoked and be removed from the certification list. Conditional certifications may be revoked for serious health and safety concerns.~~

~~C. Every recovery residence shall disclose to each prospective resident its credentialing entity. If the credentialing entity is the National Alliance for Recovery Residences, the recovery residence shall disclose the level of support provided by the recovery residence. If the credentialing entity is Oxford House, Inc., the recovery residence shall disclose that the recovery residence is self-governed and unstaffed.~~

B. Every recovery residence shall disclose to each prospective resident its affiliation with a credentialing entity, if applicable.

1. If the credentialing entity is the National Alliance for Recovery Residences, the recovery residence shall disclose the level of support provided by the recovery residence.

2. If the credentialing entity is Oxford House, Inc., the recovery residence shall disclose that the recovery residence is self-governed and unstaffed.

12VAC35-260-50. Application for certification or conditional certification.

A. All recovery residences that are not currently certified or conditionally certified shall be required to apply for certification or conditional certification using the application forms provided by the Department.

B. Recovery residences applying for certification shall submit:

1. An application form required by the department which shall include;
 - a. The name of the individual or organization seeking certification;
 - b. The proposed name of the recovery residence;
 - c. The address and telephone number of the recovery residence
 - d. The applicant's address and telephone number, if different from the address and telephone number of the recovery residence;
 - e. An email address for the applicant or organization;

- f. The name and contact information of the applicant's parent organization, if applicable;
 - g. The maximum number of residents to be housed in the recovery residence;
 - h. The floor plan of the recovery residence which includes square footage of all rooms;
 - i. The name, address, telephone number, and email address of the operator of the recovery residence, if different than the applicant;
 - j. Copies of policies and procedures required by this chapter;
 - k. Documentation that the applicant is the owner of the property or a legal agreement that the applicant has permission to operate a recovery residence on the premises;
 - l. Proof of business insurance, including general liability insurance; and
 - m. An application fee.
- 2. In lieu of an application as required by 12VAC355-260-40 (B) (1), the recovery residence, or the credentialing entity on behalf of a recovery residence, may provide evidence of accreditation by a charter from or membership in a credentialing entity listed below:
 - a. the Virginia Association of Recovery Residences;
 - b. or Oxford House, Inc.
- C. If the department identifies deficiencies in an application, the department shall notify the applicant in writing. The applicant shall have 30 days from the notification of the deficiency to correct the deficiency.
- D. The department shall screen an application and accompanying documents for completeness according to the date and time the application is received. An application will be considered complete when all required documents are received by the department.
- E. Upon initial review and approval of an application, the department may conduct an inspection of the recovery residence to ensure the residence is in compliance with this chapter and meets standards for certification.
 - 1. Recovery residences which are accredited or chartered from a credentialing entity shall not be required to have an inspection.
 - 2. The credentialing entity shall share information requested by the department regarding applicants to ensure compliance with this chapter.
- F. Any applicant who does not respond to application deficiencies or who does not schedule an inspection based on department procedures shall have their application closed. The department shall notify the applicant in writing of the application closure and that new application may be submitted. An applicant who

has had an application closure shall wait 60 days prior to the submission of a new application.

- G. The department shall issue a certification upon approval of a recovery residence's application and inspection.
- H. A certification shall last for a period of two years.
- I. A certification issued pursuant to this chapter shall not be transferred or assigned to another recovery residence. A new application shall be made and a new certification issued when there is a change in ownership.
- J. Each recovery residence shall be certified, and each recovery residence shall submit a separate application and documentation.

12VAC35-260-60. Conditional certification.

Notwithstanding the provisions of 12VAC3-260-40, the Department may issue a six-month conditional certification to an applicant that has indicated an intent to receive accreditation by or membership in a credentialing entity.

- 1. The maximum term of a conditional certification issued under this section shall be six months.
- 2. At the discretion of the department, a conditional certification may be renewed once, for a period not to exceed three months, if the recovery residence is not able to demonstrate compliance with all certification regulations but demonstrates progress toward compliance.
- 3. In no case shall the total period of conditional certification exceed nine successive months.

12VAC35-260-70. Renewals.

- A. Certifications issued under this chapter shall expire after a period of two years as indicated on the certification. The recovery residence shall confirm its intent to renew the certification prior to the expiration date.
- B. The recovery residence's completed renewal application and application fee shall be submitted at least 90 days prior to the expiration of the current certification.
 - a. Failure to submit a renewal application at least 90 days prior to the expiration of the current certification shall be considered notification to the department of intent to discontinue operation of the recovery residence and cease operations at the expiration of the certification.
 - b. In lieu of a renewal application and fee the recovery residence, or the credentialing entity on behalf of the recovery residence, may provide

evidence of continuing accreditation by a charter from or membership in a credentialing entity listed below:

- i. the Virginia Association of Recovery Residences;
- ii. or Oxford House, Inc.

12VAC35-260-80. Denial or revocation of certification or conditional certification

- A. An application for certification, conditional certification, or certification renewal may be denied or a certification or conditional certification may be revoked for one or more of the following reasons:
1. The recovery residence or applicant has violated any provisions of § 37.2-431.1 of the Code of Virginia or these regulations;
 2. The recovery residence or applicant's conduct is detrimental to the welfare of any individual in residence;
 3. The recovery residence or applicant permits, aids, or abets the commission of an illegal act;
 4. Any owner, operator, director, or chief financial officer has been found guilty of, or has entered a plea of guilty or nolo contendere to any of the following offenses within five years prior to the application:
 - i. A serious offense related to healthcare fraud;
 - ii. Resident brokering;
 - iii. Criminal use of confidential personal information; or
 - iv. Abuse, neglect, or exploitation of vulnerable persons.
 5. The recovery residence or applicant fails or refuses to submit reports or make records available as requested by the department;
 6. The recovery residence or applicant refuses to admit a representative of the department who displays a state-issued photo identification to the premises;
 7. The recovery residence or applicant fails to submit or implement an adequate corrective action plan;
 8. The recovery residence or applicant submits any misleading or false information to the department.
 9. Repeated violations continue despite corrective measures.
 10. Accreditation or chartering is permanently withdrawn.
- B. A recovery residence shall be notified in writing of the department's intent to deny or revoke a certification or conditional certification; the reasons for the action; the right to an informal conference; and the informal conference process.

12VAC35-260-90. Inspections.

- A. The department may conduct unannounced inspections of all recovery residences at any time to determine compliance with this chapter.
- B. The department may conduct announced and unannounced inspections at any time as a part of investigation of complaints or serious incidents to determine if there is a violation of this chapter.

12VAC35-260-100. Variance.

The department may grant a variance to a specific regulation if the department determines that such a variance will not jeopardize the health, safety, or welfare of residents. A recovery residence shall submit a request for such variance in writing to the department. The request shall demonstrate that the variance will not jeopardize the health, safety, or welfare of residents. The department may limit the length of time a variance will be effective. The recovery residence shall not implement a variance until it has been approved in writing by the department.

12VAC35-260-110. Required reporting.

Each recovery residence shall report the following information concerning deaths and serious injuries to the department in a manner prescribed by the department within 48 hours of discovery. All deaths that occur as a result of illness or injury occurring when the resident was in a recovery residence shall be reported regardless of the location where the death occurs. All reports of death and serious injuries shall include:

- 1. Date and place of the death or serious injury;
- 2. Nature of the injuries; and
- 3. Circumstances of the death or serious injury.

12VAC35-260-120. Corrective action plans.

- A. If there is noncompliance with any applicable regulation during an inspection or complaint investigation, the department shall issue a certification report describing the noncompliance and requesting the recovery residence to submit a corrective action plan for each violation cited.
- B. The recovery residence shall submit to the department a written corrective action plan for each violation cited.
- C. The corrective action plan shall include a:
 - a. Detailed description of the corrective actions to be taken that will minimize the possibility that the violation will occur again and correct any deficiencies;
 - b. Date of completion for each corrective action; and
 - c. The responsible person designated to oversee the implementation of the pledged corrective action.

- D. The recovery residence shall submit a corrective action plan to the department within 15 business days of the issuance of the certification report. One extension may be granted by the department when requested prior to the due date, but extensions shall not exceed an additional 10 business days. An immediate corrective action plan shall be required if the department determines that the violations pose a danger to residents of the recovery residence.
- E. The recovery residence shall implement an approved written corrective action plan for each violation cited by the date of completion identified in the plan.
- F. Failure to implement a corrective action plan by the date of completion identified in the plan may result in disciplinary action enumerated within 12VAC3-260-100.

12VAC35-260-130. Disciplinary actions.

- A. The department may invoke disciplinary actions as enumerated in § 37.2-431.1 of the Code of Virginia upon receipt of information that a recovery residence is:
 - 1. In violation of the provisions of § 37.2-431.1 of the Code of Virginia, these regulations, or the requirements of their charter or membership within their credentialing entity; and
 - 2. Such violation adversely affects the residents within the recovery residence, or poses an imminent and substantial threat to the health, safety or welfare of residents.
- B. Warning notice. The department may issue a warning notice to a recovery residence when:
 - 1. Multiple deficiencies are identified; or
 - 2. The department receives repeated complaints about a recovery residence.
- C. Probationary status includes inspections, documentation requests, and progress reviews. The department may place a residence on probationary status when:
 - 1. Multiple deficiencies are identified;
 - 2. Repeated complaints indicate systemic issues; or
 - 3. Health and safety concerns necessitate enhanced oversight.
- D. Suspension of indigent bed funding. The department may suspend a recovery residence's indigent bed funding when:
 - 1. Immediate danger to residents is present; or
 - 2. Serious incident reports are not submitted or not submitted within the deadline.
- E. Temporary suspension prohibits a recovery residence from representing itself as certified during the suspension. Temporary suspension bars the recovery residence from admitting new residents during the term of their suspension. The department may place a recovery residence on temporary suspension when:

1. Immediate danger to residents is present;
 2. Serious incident reports are not submitted or not submitted within the deadline;
 3. Accreditation or chartering status is lost; or
 4. The recovery residence refuses to admit a representative of the department who displays a state-issued photo identification to the premises, or otherwise interferes with an inspection.
- F. Decertification or revocation of certification bars future applications for a period defined within department policy. Certification may be revoked when:
1. The recovery residence conduct is detrimental to the welfare of any individual in residence;
 2. The recovery residence or operator submits any misleading or false information to the department.
 3. The recovery residence fails to report serious incidents to the department.
 4. Corrective action plans are not carried out or inadequately carried out.
 5. Repeated violations continue despite corrective measures.
 6. Accreditation or chartering is permanently withdrawn.
- G. Credentialing entities shall report all sanctions of their credentialed recovery residences to the department at the time the credentialing entity reports the sanction to the recovery residence.

12VAC35-260-140. Complaint process.

- A. Each recovery residence shall have a complaint policy and procedure which addresses the requirements of this section. The policy and procedure shall:
- a. Identify the staff member who is responsible for addressing complaints; and
 - b. Prohibit the use of non-disclosure agreements that conflict or deter submission and investigations of complaints.
- B. Each resident in a recovery residence has the right to:
1. Make a complaint regarding the recovery residence or the operator of the recovery residence;
 2. Have a timely and fair review of any complaint in accordance with the recovery residence's policies and procedures; and
 3. Make a complaint under any other applicable law, including to protection and advocacy agencies.
- C. When a resident makes a complaint to the recovery residence, the resident shall:
1. Be contacted by the staff member of the recovery residence responsible for addressing complaints regarding the complaint within 24 hours;
 2. Be protected from retaliation and harm;

3. Have the complaint reviewed, investigated, and resolved as soon as possible;
 4. Receive a report with the recovery residence's decision and action plan regarding the complaint within 10 working days.
 5. Be notified in writing of his right to and the process for appealing the decision and action plan to the recovery residence's operator.
- D. Certain classifications of complaints shall be referred directly to the department.
Complaints to be referred directly to the department include:
1. Complaints regarding the recovery residence's operator.
 2. Complaints which concern the health, safety or welfare of the residents of the recovery residence.
 - i. The resident may contact the department directly.
 - ii. The recovery residence operator shall notify the department of the complaint as soon as possible, but no later than the next business day.
 - iii. Credentialing agencies shall notify the department of the complaint as soon as possible, but no later than the next business day.
 3. Complaints involving injury, abuse or exploitation:
 - i. The resident may contact the department directly.
 - ii. The operator shall take immediate steps to protect the resident until an investigation is complete;
 - iii. The recovery residence operator shall notify the department of any injuries or allegation of abuse or exploitation within 24 hours of discovery;
 - iv. A credentialing entity shall notify the department of any injuries or allegation of abuse or exploitation within 24 hours of receiving the complaint.
 - v. The operator shall ensure that an investigation is conducted by a person who is not involved in the issues under investigation;
 - vi. The investigator shall provide a written report of the results of the investigation of injury, abuse or exploitation to the operator and to the department within 10 working days from the date the investigation began unless an extension has been granted by the department.
- E. The department shall respond to all complaints referred to the department as soon as possible but no later than five business days.
- F. If at any time the operator has reason to suspect that any complaint reported to them is a crime and that it occurred on the recovery residence premises, the

operator shall immediately contact the appropriate law-enforcement authorities and cooperate fully with any investigation that may result.

- G. Recovery residences and recovery residence operators are prohibited from creating, using or pressuring a resident to enter into a non-disclosure agreement which would interfere with the resident's right to submit a complaint regarding the recovery residence or recovery residence operator.

12VAC35-260-150. Legal business entity.

Each operator shall have documentation that it is appropriately credentialed to conduct business in the Commonwealth by the SCC. The documentation shall be accessible to the department during inspections.

12VAC35-260-160. Community liaison.

Each operator shall designate a staff person at each recovery residence as a community liaison responsible for facilitating cooperative relationships with neighbors, local law-enforcement personnel, local government officials, and the community at large. The community liaison shall be responsible for fielding complaints from the surrounding community and work to ensure that the recovery residence addresses those complaints.

12VAC35-260-170. Policy regarding marijuana.

The recovery residence shall have and implement a written policy regarding use and possession of marijuana or marijuana products used in accordance with the Medical Cannabis Program (§ 4.1-1600 et seq. of the Code of Virginia). The policy at a minimum shall provide:

1. A prohibition on the consumption or possession of any marijuana or marijuana products if the operator does not allow them, applicable to every resident; or
2. A prohibition on the consumption or possession of marijuana or marijuana products for recreational use and protocols governing the consumption, possession, and storage of marijuana or marijuana products used by residents with valid certifications issued pursuant to the Medical Cannabis Program.

12VAC35-260-180. Policy regarding Alcohol and illicit drug use.

The recovery residence shall have and implement a written policy regarding use and possession of alcohol and illicit drugs. The policy at a minimum shall provide:

1. The use or possession of alcohol or illicit drugs on the premises is strictly prohibited;
2. Any individual who resides within the recovery residence is prohibited from consuming alcohol or illicit drugs during the period of their residence;
3. Frequency and triggering events for the recovery residence to test a resident for alcohol or illicit drug use; and
4. Disciplinary actions the recovery residence shall take should a resident violate the recovery residence's alcohol and illicit drug use policy.

12VAC35-260-190. Resident's handbook.

- A. The recovery residence shall have and implement a resident's handbook. The handbook shall lay out rules and expectations and inform residents of their rights.
- B. Each resident shall sign a form indicating the resident has received and understands the information within the resident's handbook.
- C. Each resident shall be provided a copy of the resident's handbook for future reference.
- D. A staff member shall be available to any resident who has questions regarding the resident's handbook.
- E. The recovery residence shall ensure proper and safe storage of these signed documents.

12VAC35-260-200. Prohibition against resident brokering.

- A. Each recovery residence and recovery residence operator is prohibited from engaging in resident brokering.
- B. Each recovery residence and recovery residence operator shall report any identified instances of resident brokering to law enforcement, the department, and any applicable credentialing entity.

12VAC35-260-210. Prohibition against deceptive or false advertising.

The recovery residence shall not use any advertising that contains false, misleading, deceptive statements or claims. The recovery residence shall not use any advertising that contains false or misleading disclosure of fees, payments, or disclosure of outcomes.

12VAC35-260-220. Physical environment requirements.

- A. Each resident shall be provided their own bed.
- B. Each bedroom shall have no less than 50 square feet of floor space per resident.
- C. Each recovery residence shall have a minimum of one sink, toilet and shower per six residents.

- D. Each resident shall have adequate private storage space accessible to the bedroom for clothing and personal belongings.
- E. Each resident shall have adequate storage space accessible to the kitchen for storage of food.
- F. The interior and exterior of all recovery residences shall be safe, properly maintained, clean, and in good repair.

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