WEST VIRGINIA CODE: §16-59-2

§16-59-2. Voluntary certification of recovery residences.

(a) The department shall contract with an entity to serve as the certifying agency for a voluntary certification program for drug-free and alcohol-free recovery residences based upon standards determined by the National Alliance for Recovery Residences (NARR) or a similar entity. The certifying agency shall establish and implement an accreditation program for drug-free and alcohol-free recovery residences that shall maintain nationally recognized standards that:

(1) Uphold industry best practices and support a safe, healthy, and effective recovery environment;

(2) Evaluate the residence's ability to assist persons in achieving long-term recovery goals;

(3) Protect residents of drug- and alcohol-free housing against unreasonable and unfair practices in setting and collecting fee payments.

(4) Protect residents from human trafficking that may occur in the recovery residence setting.

(5) Protect patients from predatory practices that lead to patient brokering.

(b) The department shall require the recovery residence to collect, retain, and submit the following:

(1) Documentation verifying certification as specified and administered by the certifying agency;

(2) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, documentation of verification by the municipality or county where the recovery residence is located stating that the recovery residence is in compliance.

(3) Data from each registered recovery residence at intervals determined by the department, but not less than annually. The data shall be uniform across all recovery residences. The department, in conjunction with applicable stakeholders to include, but not be limited to, the Office of the Inspector General, the Superintendent, or designee, of the West Virginia State Police, the West Virginia Sheriff's Association, and a representative of West Virginia National Alliance for Recovery Residences, shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. to specify the data to be collected. The data variables shall include, but not be limited to, variables to allow the department, certifying agency, the Office of the Inspector General, and the West Virginia Fusion Center-Human Trafficking Division to conduct an analysis of the performance of recovery residences

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and to determine if patient brokering or human trafficking is occurring. The data shall be shared in personally identifiable form with the Office of the Inspector General, the certifying agency, and the West Virginia Fusion Center-Human Trafficking Division, with the appropriate Health Insurance Portability and Accountability Act safeguards in place to protect the data in transmission and in storage.

(4) Documentation verifying initial and continued registration as required in §16-59-4 of this code.

(c) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, the municipality or county must perform requested or required inspections within 30 days of receiving a request for verification. If a residence is located within a municipality or county that offers or requires verification of compliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, and the municipality or county fails to perform requested or required inspections within 30 days of receiving a request for verification, the residence may apply for and be granted certification directly through the certifying agency without the aforementioned verification.

(d) Upon receiving a complete application, the certifying agency shall evaluate the residence to determine if the residence is in compliance with national best-practice standards, health, and safety requirements. Additionally, any application of the items specified in this section must comply with the Fair Housing Act, 42 U.S.C. §3601 *et seq*. and the Americans with Disabilities Act of 2008, 42 U.S.C. §12101 *et seq*.

(1) If it is determined that the residence is in compliance, the certification agency shall issue a certificate of compliance to the recovery residence operator for the specific recovery residence location set forth in the application.

(2) Each residence location, even if operated by the same person or entity, must maintain a certificate of compliance for the purposes of this article.

(e) The certifying agency may suspend or revoke a certificate of compliance if the recovery residence is not in compliance with any provision of this section or has failed to remedy any deficiency identified in writing and served by certified mail unless the deficiency is an immediate jeopardy in which case it may be served in person. Suspension or revocation may take place after a notice of deficiency is served and has existed for at least 30 days, except in cases of an immediate jeopardy. After receipt of a suspension or revocation notice, the recovery residence is prohibited from accepting new residents and may only work to transfer residents to another certified recovery residence. If the certifying agency determines that an immediate jeopardy exists, then the operator will be provided 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 certification agency departs the premises. 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

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applicable certification immediately and give the operator of the recovery residence up to five days to transfer existing residents to another certified recovery residence.

(f) Notwithstanding any other provision to the contrary, the certifying agency shall implement and maintain a process by which a residence whose certification has been suspended or revoked may apply for, and be granted, reinstatement. If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, and if the residence's certification suspended or revoked for noncompliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, the municipality or county may charge a fee of up to $100 for any requested reinspection of a recovery residence by the residence seeking reinstatement.

(g) The department shall periodically evaluate the quality, integrity, and efficacy of the accreditation program developed. The department shall promulgate rules subject to legislative approval in accordance with §29A-3-1 *et seq*. of this code to implement this section that shall include a process for receiving complaints against drug-free and alcohol-free recovery residences and criteria by which such residences' certifications can be revoked.

(h) A person may not advertise to the public any recovery residence as a "certified recovery residence" unless the recovery residence has first secured a certificate of compliance under this section. A person who violates this subsection commits a misdemeanor, punishable by a fine of not less than $1,000 nor more than $5,000 for each infraction.

(i) This article 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.

(j) Nothing herein shall be read to require any recovery residence to obtain certifications set forth herein in order to conduct operations: *Provided*, That a recovery residence without a valid certificate of compliance, as provided in §16-59-2 of this code, is prohibited from receiving a referral or receiving a person released from prison for the placement of any prisoner, parolee, probationer, or prospective, current, or discharged patient, or client from the Division of Corrections and Rehabilitation, the Parole Board, the county probation offices, day report center, municipal courts, or a medical or clinical treatment facility that receives funds for its operations from the State Treasury. A person who violates this subsection commits a misdemeanor, punishable by a fine of not less than $1,000 nor more than $5,000 for each infraction.

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