

1 AN ACT relating to recovery housing and making an appropriation therefor.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 10 of this Act:*

6 *(1) "Certifying organization":*

7 *(a) Means an organization designated and formally recognized by the Cabinet*
8 *for Health and Family Services that develops and administers professional*
9 *certification programs requiring minimum standards for the operation of*
10 *recovery residences that are at least equal to the standards developed by the*
11 *cabinet pursuant to Section 4 of this Act; and*

12 *(b) Includes but is not limited to:*

13 *1. The National Alliance for Recovery Residences; and*

14 *2. The Kentucky Recovery Housing Network;*

15 *(2) "Cabinet" means the Cabinet for Health and Family Services;*

16 *(3) "Local government" means a city, county, urban-county government,*
17 *consolidated local government, charter county government, or unified local*
18 *government;*

19 *(4) "Medication-assisted treatment" means the use of pharmacological agents*
20 *approved by the United States Food and Drug Administration for the treatment of*
21 *substance use disorders in combination with counseling and other behavioral*
22 *health therapies to provide a whole-patient approach to the treatment of*
23 *substance use disorders;*

24 *(5) "Operator" means:*

25 *(a) The lawful owner of a recovery residence; and*

26 *(b) Any individual employed by the lawful owner of a recovery residence who is*
27 *primarily responsible for the daily operation of the recovery residence,*

1 including but not to limited responsibility for the maintenance of standards
2 and conditions that create an environment supportive of substance use
3 disorder recovery;

4 (6) "Recovery residence" means any premises, place, or building that:

5 (a) Holds itself out as a recovery residence, recovery home, sober living
6 residence, or an alcohol and illicit drug-free home for unrelated
7 individuals;

8 (b) Provides alcohol-free and illicit drug-free housing;

9 (c) Provides a housing arrangement for a group of unrelated individuals who
10 are recovering from substance use disorders or to a group of parents who
11 are recovering from a substance use disorder and their children, including
12 peer-to-peer supervision models; and

13 (d) Does not provide medical or clinical services or on-site medication
14 administration, except for the verification of abstinence from alcohol,
15 marijuana, and illicit drugs; and

16 (7) "Recovery support services" means activities that are directed primarily toward
17 recovery from substance use disorders, which include but are not limited to:

18 (a) Mutual aid self-help meetings;

19 (b) The ability to participate in a meaningful manner in the governance and
20 management of the recovery residence;

21 (c) The ability to access treatment and mental health services of the resident's
22 choosing; and

23 (d) Assistance in achieving and retaining gainful employment.

24 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
25 READ AS FOLLOWS:

26 (1) Effective July 1, 2024, no individual or entity shall establish, operate, or maintain
27 a recovery residence, recovery home, sober living residence, or an alcohol and

1 illicit drug-free home for unrelated individuals or represent, promote, advertise,
2 or otherwise claim to operate a recovery residence, recovery home, sober living
3 residence, or an alcohol and illicit drug-free home for unrelated individuals
4 unless that individual or entity possess a current and valid recovery residence
5 certification issued by the cabinet pursuant to Sections 4 and 5 of this Act and
6 any administrative regulations promulgated thereunder.

7 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
8 READ AS FOLLOWS:

9 A certified recovery residence:

10 (1) Shall:

11 (a) Promote alcohol-free and drug-free housing by requiring residents to
12 abstain from the use of alcohol, marijuana, and illicit drugs;

13 (b) Promote independent living and the development of life skills;

14 (c) Provide recovery support services;

15 (d) Allow individuals who are receiving medication approved by the federal
16 Food and Drug Administration for the treatment of substance use disorder
17 or alcohol use disorder to continue to receive such treatment while residing
18 in the recovery residence;

19 (e) Provide recovery support services and ensure that residents are
20 participating in recovery support services;

21 (f) In accordance with the federal Health Insurance Portability and
22 Accountability Act and 45 C.F.R sec. 164.512(f), disclose protected health
23 information for a law enforcement purpose when required to comply with,
24 and as limited by the relevant requirements of, a court order, court-ordered
25 warrant, subpoena, summons issued by a judicial officer including notice of
26 a protective order, or grand jury subpoena; and

27 (g) Comply with all applicable federal, state, and local laws, including but not

1 limited to:

2 1. The Americans with Disabilities Act of 1990, as amended; and

3 2. All state and local fire codes, building codes, and property
 4 maintenance codes applicable to comparable dwellings occupied by
 5 single families; and

6 (2) Shall not:

7 (a) Provide any medical or clinical services or medication administration on-
 8 site, except for the verification and alcohol and illicit drug abstinence;

9 (b) Establish or adopt any policy or procedures that would impose an undue or
 10 unreasonable burden on a resident's ability to fulfill his or her obligation to
 11 any social service agency, including but not limited to the resident's ability
 12 to fulfill work requirements established under 7 U.S.C. sec. 2015(d)(1), to
 13 comply with a court order, or to fulfill any parole or probation
 14 requirements; or

15 (c) Discriminate against individuals or residents:

16 1. On the basis of age, ancestry, color, disability, ethnicity, gender,
 17 genetics, HIV/AIDS status, military or veteran status, national origin,
 18 pregnancy status, race, religion, sexual orientation, or any other
 19 protected class, except that a recovery residence may require that an
 20 individual be medically or clinically suitable for recovery residency; or
 21 2. Who are receiving medication-assisted treatment for opioid use
 22 disorder.

23 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) (a) The cabinet shall, no later than January 1, 2024, promulgate administrative
 26 regulations in accordance with KRS Chapter 13A to establish certification
 27 requirements for recovery residences and minimum standards for the

1 operation of a recovery residence.

2 **(b) Prior to promulgating administrative regulations to establish certification**
3 **requirements and minimum standards for the operation of recovery**
4 **residences required by this subsection and subsection (2) of this section, the**
5 **cabinet shall consult and seek input from recovery residence and substance**
6 **use disorder recovery stakeholders.**

7 **(c) Administrative regulations promulgated by the cabinet pursuant to this**
8 **subsection shall, at a minimum, include:**

9 **1. The recovery residence certification application, renewal, review,**
10 **approval or denial, and appeal process, which shall include:**

11 **a. Reasonable fees and late fees for certification and**
12 **recertification;**

13 **b. An exemption from the certification requirements established in**
14 **Sections 1 to 10 of this Act and any administrative regulations**
15 **promulgated thereunder for any premises, place, or building:**

16 **i. That is owned in part or in whole by an individual who is**
17 **an occupant or resident of the premises, place, or building;**

18 **ii. Where the tenants or residents of the premisses, place, or**
19 **building are acting as a family by the pooling of funds to**
20 **pay utility bills, sharing chores, or otherwise acting as a**
21 **family unit; or**

22 **iii. That is not a business of any kind or leased or operated by**
23 **a corporate entity, whether for profit or nonprofit; and**

24 **c. A process for automatic issuance and renewal of a recovery**
25 **residence certification to:**

26 **i. A recovery residence that is certified by a certifying**
27 **organization; and**

- 1 ii. An individual or entity that is operating a recovery
2 residence under a charter from Oxford House, Inc., or that
3 is recognized as part of the Recovery Kentucky Program
4 administered by the Kentucky Housing Corporation;
- 5 2. Designation of formally recognized and approved certifying
6 organizations;
- 7 3. A requirement that each recovery residence shall, prior to
8 certification, develop policies and procedures:
- 9 a. That promote recovery by requiring residents to:
- 10 i. Abstain from the use of alcohol, marijuana, and illicit
11 drugs;
- 12 ii. Participate in appropriate workforce training, be enrolled
13 in an approved educational program, seek employment
14 within a certain timeframe, participate in eligible
15 volunteer activities, or have proof of a qualifying disability
16 or other qualifying condition that precludes participation in
17 the required activities; and
- 18 ii. Participate in a licensed or accredited treatment program,
19 self-help group, or other recovery support services; and
- 20 b. For managing and responding to complaints filed with the
21 cabinet or a local government; and
- 22 4. A requirement that each certified recovery residence shall report
23 annually to the cabinet information regarding the number and
24 demographics of residents, deaths, substance-related medical incidents
25 or overdoses, and any other information required by the cabinet in a
26 manner and frequency determined by the cabinet;
- 27 5. Policies and procedures for the enforcement of certification

1 requirements established in Sections 1 to 10 of this Act and any
 2 administrative regulation promulgated thereunder, including but not
 3 limited to inspections prior to initial licensure, prior to licensure
 4 renewal, and upon determination of reasonable cause pursuant to
 5 subsection (1) of Section 10 of this Act; and

6 6. Policies and procedures by which local governments may partner with
 7 the cabinet for the administration and enforcement of Sections 1 to 10
 8 of this Act.

9 (2) The cabinet may promulgate administrative regulations, in accordance with KRS
 10 Chapter 13A, to establish a temporary certification process for newly established
 11 recovery residences that are seeking certification from a certifying organization.

12 (3) Notwithstanding any provision of law to the contrary, administrative regulations
 13 promulgated pursuant to subsection (1) of this section shall not be enforceable
 14 prior to July 1, 2024.

15 (4) Nothing in Sections 1 to 10 of this Act shall prohibit the cabinet from contracting
 16 with a third party or local government to assist the cabinet with certification,
 17 inspections, and enforcement.

18 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
 19 READ AS FOLLOWS:

20 A recovery residence certification issued by the cabinet shall:

21 (1) Be valid for a period of time as determined by the cabinet;

22 (2) Authorize the operation of a single recovery residence even if an individual or
 23 entity owns or operates multiple recovery residences in the Commonwealth; and

24 (3) Not be transferable and shall only be valid for the premises occupied by the
 25 recovery residence at the time of issuance.

26 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
 27 READ AS FOLLOWS:

1 After June 30, 2024:

- 2 (1) When referring an individual who is in need of recovery residency services, the
3 following individuals and entities shall only refer individuals to certified recovery
4 residences:
- 5 (a) State agencies;
6 (b) State-contracted vendors;
7 (c) Political subdivisions of the state;
8 (d) Health care providers who are licensed in the Commonwealth; and
9 (e) Behavioral health providers who are licensed in the Commonwealth.
- 10 (2) When making orders or recommendations that an individual under its
11 supervision receive recovery residency services, any court of the Commonwealth
12 shall give first consideration to certified recovery residences.
- 13 (3) Only a certified recovery residence shall be eligible to receive state funding and,
14 to the extent permitted under federal law, federal funding for the delivery of
15 recovery residency services in the Commonwealth.

16 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
17 READ AS FOLLOWS:

- 18 (1) (a) A local government may elect to partner with the cabinet for the local
19 enforcement of the provisions of Sections 2, 3, and 4 of this Act and any
20 administrative regulations promulgated thereunder. A local government
21 electing to partner with the cabinet pursuant to this section shall provide
22 notice to the cabinet in a manner prescribed by the cabinet.
- 23 (b) Notwithstanding any provision of law to the contrary, the cabinet shall not
24 refuse, deny, or otherwise oppose a local government's decision to partner
25 with the cabinet for enforcement purposed pursuant to this section.
- 26 (2) A local government that has elected to partner with the cabinet under this section
27 shall:

1 pursuant to KRS 65.8801 to 65.8839. If a local government elects to enforce the
2 ordinance through its local code enforcement board, the local government shall
3 include in the ordinance provisions for a maximum fine consistent with the fines
4 established in Section 10 of this Act if the citation is contested and for fines equal
5 to not more than sixty-five percent (65%) of the maximum fine if the violator pays
6 the fine without contesting the citation.

7 (4) Nothing in Sections 1 to 10 of this Act shall be interpreted or construed to alter,
8 amend, or otherwise infringe upon a local government's authority to regulate the
9 use of property through properly enacted land use laws pursuant to KRS Chapter
10 100, rental property regulations, or any other local government authority
11 provided under the law.

12 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
13 READ AS FOLLOWS:

14 (1) The cabinet shall post on its website the name, telephone number, and location by
15 local jurisdiction of each certified recovery residence and shall update the list at
16 least quarterly. The cabinet shall not disclose the address of a certified recovery
17 residence except to local governments, local law enforcement, and emergency
18 personnel.

19 (2) By July 1 of each year beginning in 2025, the cabinet shall submit a report to the
20 Interim Joint Committee on Health, Welfare, and Family Services that includes:

21 (a) The total number of certified recovery residence in each city and county in
22 the Commonwealth;

23 (b) The number of newly certified recovery residences in the previous twelve
24 (12) months;

25 (c) The number and nature of complaints against recovery residences that the
26 cabinet investigated during the previous twelve (12) months; and

27 (d) The number and nature of enforcement actions the cabinet took against

1 *certified recovery residences during the previous twelve (12) months.*

2 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
3 READ AS FOLLOWS:

4 *(1) The recovery residence certification trust fund is hereby created as a separate*
5 *trust fund within the State Treasury. The fund shall be administered by the*
6 *Cabinet for Health and Family Services.*

7 *(2) The fund shall consist of moneys collected by the cabinet from licensing fees,*
8 *finances, and penalties established pursuant to Sections 3 and 10 of this Act and any*
9 *administrative regulations promulgated thereunder and any proceeds from*
10 *grants, contributions, appropriations, or other moneys made available for the*
11 *purpose of this fund.*

12 *(3) Notwithstanding KRS 45.229, trust fund amounts not expended at the close of a*
13 *fiscal year shall not lapse but shall be carried forward to the next fiscal year.*

14 *(4) Any interest on moneys in the trust fund shall become a part of the trust fund and*
15 *shall not lapse.*

16 *(5) Trust fund moneys shall be used for the operation and enforcement of the*
17 *recovery residence certification program established in Sections 1, 2, 3, 4, 5, and*
18 *to 6 of this Act.*

19 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
20 READ AS FOLLOWS:

21 *(1) On a determination by the cabinet that there is reasonable cause to believe that a*
22 *recovery residence has violated any provision of Sections 1 to 10 of this Act or*
23 *any administrative regulation promulgated thereunder, the cabinet may enter on*
24 *and into the premises of a recovery residence that is certified or required to be*
25 *certified pursuant to Sections 1 to 10 of this Act at any reasonable time for the*
26 *purpose of determining its state of compliance.*

27 *(2) If the cabinet determines that a violation of Sections 1 to 10 of this Act or any*

1 administrative regulation promulgated thereunder has occurred, the cabinet may,
2 in accordance with KRS Chapter 13B:

3 (a) Impose a civil penalty of up to one thousand dollars (\$1,000) per day upon
4 an individual or entity operating a recovery residence without certification;

5 (b) Impose a civil penalty of up to five hundred dollars (\$500) per violation
6 upon the operator of a certified recovery residence, except that each day
7 that the violation continues shall constitute a separate violation; and

8 (c) Impose sanctions and commence disciplinary actions against a certified
9 recovery residence including the suspension or revocation of a certification.

10 (3) Any moneys collected by the cabinet under this section shall be deposited into the
11 recovery residence certification trust fund established in Section 9 of this Act.

12 ➔Section 11. The Department for Medicaid Services shall, no later than January
13 1, 2024, take all reasonable steps necessary, which may include preparation and
14 submission of a Medicaid state plan amendment or waiver application, to pursue approval
15 from the federal Centers for Medicare and Medicaid Services to provide Medicaid
16 coverage and reimbursement for substance use disorder recovery services provided by a
17 certified recovery residence.

18 ➔Section 12. In the event that the Legislative Research Commission dissolves the
19 Interim Joint Committee on Health, Welfare, and Family Services and establishes another
20 interim joint committee with jurisdiction over health services, the report required in
21 Section 8 of this Act shall be submitted to that interim joint committee.