

Senate Bill 526

By: Senators Robertson of the 29th, Dixon of the 45th, Brass of the 6th, Strickland of the 42nd, Hickman of the 4th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so
2 as to provide for the licensing and regulation of recovery residences; to provide for minimum
3 standards; to provide for rules and regulations; to provide for applications for licensing; to
4 provide for provisional licensing; to provide for compliance; to provide for the denial,
5 suspension, or revocation of licenses; to provide for enforcement actions; to provide for
6 confidentiality; to provide for inspections; to provide for procedures and penalties relating
7 to unlicensed recovery residences; to provide for definitions; to provide for conforming
8 changes; to provide legislative findings; to provide a short title; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended in
13 Code Section 37-2-70, relating to definitions relative to adult residential mental health
14 programs, by adding a new paragraph to read as follows:

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15 "(8) 'Recovery residence' means a program licensed by the department under Chapter 14
16 of this title."

17 **SECTION 2.**

18 Said title is further amended by revising Code Section 37-2-71, relating to fee schedule for
19 licensure relative to adult residential mental health programs, as follows:

20 "37-2-71.

21 The department shall establish by rule adopted pursuant to Chapter 13 of Title 50, the
22 'Georgia Administrative Procedure Act,' a schedule of fees for licensure activities for adult
23 residential mental health programs, community living arrangements, drug abuse treatment
24 and education programs, recovery residences, and narcotic treatment programs required to
25 be licensed by the department. Such schedules shall be determined in a manner so as to
26 help defray the costs incurred by the department, but in no event to exceed such costs, both
27 direct and indirect, in providing such licensure activities. Such fees may be annually
28 adjusted by the department but shall not be increased by more than the annual rate of
29 inflation as measured by the Consumer Price Index as reported by the Bureau of Labor
30 Statistics of the United States Department of Labor. All fees paid thereunder shall be paid
31 into the general fund of the State of Georgia. It is the intent of the General Assembly that
32 the proceeds from all fees imposed pursuant to this Code section be used to support and
33 improve the quality of licensing services provided by the department."

34 **SECTION 3.**

35 Said title is further amended by adding a new chapter to read as follows:

36

"CHAPTER 1437 37-14-1.38 This chapter shall be known and may be cited as the 'Recovery Residences Licensing Act.'39 37-14-2.40 The General Assembly finds that:41 (1) Recovery residences provide vital peer based housing support for individuals in
42 recovery from substance use disorders; and43 (2) A regulatory framework for recovery residences would improve the safety of
44 residents and increase accountability for facilities that receive court mandated or publicly
45 supported referrals.46 37-14-3.47 As used in this chapter, the term:48 (1) 'Applicant' means any individual affiliated with a partnership, corporation,
49 association, or individuals or groups of individuals submitting an application to operate
50 a recovery residence under this chapter.51 (2) 'Department' means the Department of Behavioral Health and Developmental
52 Disabilities.53 (3) 'Governing body' means the partnership, corporation, limited liability company,
54 association, or person or group of persons that maintains and controls the recovery
55 residence and that is legally responsible for its operation.56 (4) 'License' means the official permit issued by the department which authorizes the
57 holder to operate a recovery residence.58 (5) 'Licensee' means any person holding a license issued by the department under this
59 chapter.

60 (6) 'Recovery residence' means a residential living arrangement for unrelated individuals
61 that provides a safe and substance-free living environment that supports individuals in
62 recovery from substance use disorders and which provides support for such individuals
63 by:

64 (A) Providing a supportive peer community to which residents are accountable or other
65 supervision or monitoring; and

66 (B) Ensuring access to mutual aid groups, recovery support services, and other needed
67 services and supports.

68 (7) 'Resident' means an individual residing in a recovery residence for the purpose of
69 recovery from a substance use disorder.

70 (8) 'Substance use disorder' means a cluster of cognitive, behavioral, and physiological
71 symptoms indicating that an individual continues using a substance despite significant
72 substance related problems such as impaired control, social impairment, risky use, and
73 pharmacological tolerance and withdrawal; provided, however, that such term shall not
74 include an individual's use of tobacco or caffeine.

75 37-14-4.

76 The department shall create and promulgate minimum standards of quality and services for
77 recovery residences, and shall, at a minimum include in the rules and regulations:

78 (1) Admission criteria;

79 (2) Adequate and safe buildings or housing facilities where programs are offered and
80 standards for emergency conditions relating to such buildings or facilities;

81 (4) Standards for sufficiently trained staff or staff with prior experience who are
82 competent in the duties they are to perform;

83 (5) The content and quality of services to be provided;

84 (6) Requirements for intake, discharge, and aftercare of residents;

85 (7) Referral arrangements to other appropriate agencies or facilities, including a process
86 and adequate staff to facilitate the transfer of a resident to a licensed general or specialty
87 hospital authorized to provide inpatient medical or psychiatric services;

88 (8) Maintenance of adequate records on each resident;

89 (9) Standards for the storage, administration, and dispensing of prescribed medications
90 to residents in programs licensed under this chapter, in accordance with guidelines
91 established by the United States Drug Enforcement Administration and the Georgia
92 Board of Pharmacy;

93 (10) Permission and standards for the regulation or control and provision of food and
94 other nutrition;

95 (11) Standards for protection of resident rights while participating in a program and for
96 internal grievance procedures;

97 (12) Standards for the ethics and integrity of the staff, owners, and governing body of the
98 program;

99 (13) Standards to ensure protection of the resident and the community at large in the
100 event a resident poses a risk of potential harm to self or others; and

101 (14) Standards and procedures for incident reports to the department in the event of the
102 occurrence of major incidents and for the provision for appropriate departmental actions
103 and appeal thereof.

104 37-14-5.

105 (a) No later than January 1, 2028, the department shall create and promulgate all rules and
106 regulations necessary for the implementation of this chapter.

107 (b) The department is authorized to issue, deny, suspend, or revoke a license or take other
108 enforcement actions against a licensee or applicant as provided in Article 3 of Chapter 2
109 of this title.

110 (c) All rules and regulations and any enforcement actions initiated by the department shall
111 comply with the requirements of Chapter 13 of Title 50, the 'Georgia Administrative
112 Procedure Act.'

113 37-14-6.

114 (a) On and after January 1, 2029, no governing body shall operate a recovery residence
115 without having a valid license or provisional license issued pursuant to this chapter.

116 (b) No recovery residence shall advertise or hold itself out as offering any service or
117 program which it is not authorized to offer.

118 37-14-7.

119 (a) Application for a license to operate a recovery residence shall be submitted by the
120 governing body to the department in the manner prescribed in the department's rules and
121 regulations and shall contain a comprehensive outline of the program to be offered by the
122 applicant.

123 (b) Proof of compliance with all applicable federal and state laws for the handling and
124 dispensing of medications, and all state and local health, safety, sanitation, building, and
125 zoning codes shall be attached to any application submitted to the department.

126 37-14-8.

127 (a) The department may issue a provisional license effective for a period not to exceed 90
128 days to each applicant that has substantially complied with all requirements for a regular
129 license. Provisional licenses shall be renewed in the discretion of the department only in
130 cases of extreme hardship and in no case for longer than 90 days.

131 (b) The obligations and conditions of a provisional license shall be the same as those of
132 a regular license except as otherwise provided for in this chapter.

133 37-14-9.

134 As evidence of compliance with one or more departmental requirements for issuance or
135 renewal of a license or provisional license, the department may accept proof of certification
136 by an organization in this state which provides certification for recovery residences in
137 accordance with national standards for recovery residences established by a national
138 organization with expertise in recovery residences.

139 37-14-10.

140 (a) The department shall issue a license to a governing body for a recovery residence
141 which meets all the rules and regulations for such license. The license shall be
142 nontransferable for a change of location or governing body.

143 (b) The department shall make available on its website a registry of all licensed recovery
144 residences.

145 37-14-11.

146 (a) The department is authorized to deny, suspend, or revoke a license issued under this
147 chapter for a violation of this chapter or a rule or regulation adopted under this chapter or
148 to take other enforcement action against a licensee as provided in Article 3 of Chapter 2 of
149 this title.

150 (b) The denial, suspension, or revocation of a license by the department shall be a
151 contested case for purposes of Chapter 13 of Title 50, the 'Georgia Administrative
152 Procedure Act.'

153 37-14-12.

154 For the purpose of providing more effective treatment and rehabilitation, the records and
155 name of any individual who seeks or obtains treatment, therapeutic advice, or counsel from
156 any recovery residence licensed under this chapter and any communication by such

157 individual to an authorized employee of a licensee shall be confidential except to the extent
158 authorized in writing by the individual affected or his or her guardian or custodian;
159 provided, however, that, except for matters privileged under other laws of this state, the
160 records of such individual and information about the individual shall be produced in
161 response to a valid court order of any court of competent jurisdiction after a full and fair
162 show-cause hearing and in response to a departmental request for access for licensing
163 purposes when such request is accompanied by a written statement that no record of
164 patient-identifying information will be made. The protections provided in this Code
165 section and other provisions of state or federal law of an individual's identity or
166 communications to the clinical staff of any recovery residence licensed under this chapter
167 shall not prohibit the use of de-identified data relating to such individual for clinical or
168 programmatic research or education or in presentations about the programs offered by a
169 licensee under this chapter. Subject to and in compliance with the limitations of any state
170 or federal privacy laws, the department may require at reasonable intervals, and each
171 licensee shall furnish, copies of summary records of each individual treated or advised
172 pursuant to a recovery residence.

173 37-14-13.

174 The department shall conduct periodic on-site inspection of each recovery residence
175 licensed in this state. Such inspection shall include, but shall not be limited to, the
176 premises, staff, residents, and documents pertinent to the continued licensing of such
177 recovery residence so that the department may determine whether a provider is operating
178 in compliance with licensing requirements. Each licensee shall permit authorized
179 department representatives to enter upon and inspect any and all premises upon or in which
180 a program is to be conducted, for which a license has been applied, or for which a license
181 has been issued so that verification of compliance with all relevant laws or regulations can
182 be made.

183 37-14-14.

184 (a) On and after January 1, 2029, a program shall be deemed to be an unlicensed recovery
185 residence if it is unlicensed and not exempt from licensure under this chapter and:

186 (1) The program is providing services and is operating as a recovery residence;

187 (2) The program is held out as or represented as providing services and operating as a
188 recovery residence; or

189 (3) The program represents itself as a licensed recovery residence.

190 (b) Any unlicensed recovery residence may be assessed by the department, after
191 opportunity for hearing in accordance with the provisions of Chapter 13 of Title 50, the
192 'Georgia Administrative Procedure Act,' a civil penalty in the amount of \$100.00 per bed
193 per day for each day of violation. The department shall send a notice by certified mail or
194 statutory overnight delivery stating that licensure is required and the department's intent
195 to impose a civil penalty. Such notice shall be deemed to be constructively received on the
196 date of the first attempt to deliver the notice by the United States Postal Service. The
197 department shall take no action to collect such civil penalty until after opportunity for a
198 hearing.

199 (c) In addition to other remedies available to the department, the civil penalty authorized
200 by subsection (b) of this Code section shall be doubled if the program owner or operator
201 continues to operate the unlicensed recovery residence after receipt of notice pursuant to
202 subsection (b) of this Code section.

203 (d) The program owner or operator of an unlicensed recovery residence that is assessed
204 a civil penalty in accordance with this Code section may appeal such civil penalty to the
205 superior court in the county in which the action arose or to the Superior Court of Fulton
206 County."

207 **SECTION 4.**

208 All laws and parts of laws in conflict with this Act are repealed.