



Governor's Advisory Council for Exceptional Citizens (GACEC)
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MEMORANDUM

DATE: April 28, 2023

TO: **The Honorable Representative Kerri Harris, Senator Marie Pinkney, Representatives Valerie Longhurst, and Melissa Minor-Brown, Sponsors The Honorable Senators Hansen, S. McBride, Poore, Sokola and Representatives Baumbach, Briggs King, Griffith, Heffernan, Hensley, Hilovsky, Morrison, Romer, Shupe, K. Williams, Co-Sponsors**

FROM: **Ann C. Fisher, Chairperson
GACEC**

RE: **House Bill No. 114 Certification of Recovery Houses**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 114, which seeks to require certification for Recovery Houses in Delaware that wish to receive referrals from state agencies and who receive state funds. Council **supports the concept** of regulating recovery houses; however, we ask that the sponsors of the legislation address protection of all residents in these settings. Council would especially like information on why Oxford Houses are exempt from the proposed certification requirement.

Stable housing in a substance free environment can be a crucial element in substance use disorder treatment; however, these houses are ripe for abuse and there have been instances of financial exploitation, neglect and abuse of residents who seek out these facilities. Like every other treatment setting, especially ones that are funded by state or federal dollars, Recovery Houses must be regulated to avoid these abuses. However, this bill does not set up a licensing system, nor does it require all sober living houses to be certified. Entities that choose not to undergo this process can continue to operate with private funds. There is nothing to stop unqualified and sometimes dishonest individuals from setting up houses under the guise of calling them "sober-living" or recovery houses. Council does note that such entities could be fined if they hold themselves out as being a certified recovery house and state agencies are forbidden from referring people to these locations.

Council is deeply concerned by some aspects of the bill. The bill requires that houses publish in the required online registry (2204A(a)(4)) “whether residents can participate in Medication Assistant Treatment.” MAT is a widely used and supported short term and long-term treatment modality. United States Department of Health and Human Services has made it clear that it is a violation of the Americans with Disabilities Act (ADA) and very likely a violation of the Fair Housing Act to prohibit or exclude individuals who are engaged in MAT. This bill appears to be sanctioning illegal discrimination.

Second, the bill explicitly exempts Recovery Houses from the Landlord Tenant Code. The resident has no protection from being literally put out on the curb, without notice or warning. The House is authorized to establish rules about behavior and termination from the program. The only obligation to the resident is to make a “reasonable effort to connect the resident with appropriate services.” There is no due process, no appeal process, no obligation to refund the resident’s rent or other payments, no obligation to protect the person’s property, and no obligation to consider the safety of the person when terminating services.

Third, as mentioned earlier, Council would like information on why Oxford Houses are exempt from the proposed certification requirements.

While maintaining a sober environment is of key importance obviously, creating these environments should not be done in a vacuum without recognition of the frequency of relapse and also the devastating impact of being rendered homeless and penniless. There is a middle ground where a residence could use the emergency eviction process. There should be written notice, the ability to challenge a decision to terminate someone from the program, and fixed guidelines that protect a resident’s resources.

Thank you for your time and consideration of our support of the proposed legislation and our recommendations. Please feel free to contact me or Pam Weir at the GACEC office should you have any questions.