



**Notice of Revised Proposed Rulemaking  
Summary**

14 NYCRR Part 860

Recovery Residences

860.1 Background and Intent. Throughout the regulation, OASAS removed any reference to problem gambling specifically because the statute does not include problem gambling. OASAS also removed any references to “facility” or “house” throughout the regulation and replaced with the term “residence.” The term “recovery residence” was also used consistently throughout the regulation. The terms “patient” and “occupant” were replaced throughout with the term “resident” in the regulation.

860.2 Legal base. No revisions made.

860.3 Applicability: Shall only apply to recovery residences that voluntarily certify with OASAS. Recovery residences that do not wish to certify will be able to continue operating. No additional revisions were made from original filing.

860.4 Definitions. OASAS added “recovery”, “lived experience”, “MAT”, “assertive linkages”, “recovery plan”, “residence manager”, and “residents”. A definition for “recovery residences” was also included, revised from the former “recovery housing” definition. OASAS removed “occupants”, “person centered care” (it was only mentioned in the context of a recovery plan, and as revised the definition of recovery plan no longer used the term). OASAS also removed the word “program.”

860.5 General provisions applicable to all certified recovery residences. Contains requirements for policies and procedures that certified recovery residences must develop for certification. In this section, OASAS clarified what is required in the policy and procedure documents for each recovery residence. References to Part 815 and 836 were removed, and replaced with specific language relating to patient (resident) rights and incident reporting in order to address the specific needs of recovery programs (as opposed to treatment programs). One of the reasons that references to Part 836 were removed was to make it clear that the Justice Center does not have oversight over incident reporting. This was replaced with a reporting process directly to OASAS and Patient Advocacy. OASAS also included requirements for linkages when there is an involuntary termination of a resident.

860.6 Staffing. Includes staffing requirements for recovery residences that choose to certify in addition to training requirements. In response to public comment, OASAS re-evaluated the requirements for staffing. For a residence manager, the experience was revised from three years of experience to providing two different options-(a) one year of experience, and (b) one year in recovery or lived experience combined with one year of former residency in recovery housing. OASAS added a requirement that all residence managers must either have their CRPA or acquire it within one year of appointment. These changes are meant to make the experience required more appropriate in terms of what is required in the recovery environment. In addition, in response to public comment, the references to the 15 specific trainings was removed and replaced with a general provision requiring annual training to be chosen from a list of

recovery specific training that is provided by the office. OASAS also clarified that operators with multiple residences must maintain sufficient staff to meet the need(s) of the population.

860.7 Supporting occupants who return to substance use. Requires providers attempt to help residents who may engage in recurrent use. OASAS added specific requirements surrounding linkages and referrals for residents who experience return to use.

860.8 Safety and Housing Standards. Makes clear that state laws regarding housing/property apply. Part 814 requirements regarding facilities apply. OASAS made it clear that Part 814 does apply, but included some a few exemptions that are not relevant to recovery residences and revised some of the Part 814 requirements (such as sanitary facilities) to make them more appropriate for a recovery residence.

860.9 Occupant Rights and Obligations. States what rights residents have, including reasonable self-governance and access to healthcare and treatment of their own choosing. OASAS added language surrounding the “recovery plan” and made it clear that the resident self-directs this plan. OASAS added specific criteria relevant to non-discrimination in admission. These criteria specifically reflect the non-discrimination criteria in Part 815.

860.10 Terminating Residency. Reminds providers that all evictions must be pursuant to state law. Prevents evictions for reasons contrary to recovery. Requires providers attempt to help residents find other accommodations if they are facing eviction. Several public comments were received in response to this section. OASAS clarified the requirements for addressing a residents return to use and how it relates to terminating residency. OASAS added a provision making it clear that length of stay is resident-driven and providers may not independently put a limit on length of stay.

860.11 Certification. Makes it clear that recovery residences must comply with Part 810 certification if they wish to become certified. OASAS made it clear that Part 810 does not apply, and instead replaced the refence with the specific language and requirements from Part 810 that are directly relevant to certification of a recovery residence. OASAS is in development of a recovery residence-specific certification application, and additional guidance will be provided by the office.

860.12 Severability.



## **14 NYCRR PART 860**

### **PROPOSED NEW PART 860**

#### **Recovery Residences**

##### **860.1 Background.**

This Part establishes requirements for recovery residences certified by the Office of Addiction Services and Supports (“OASAS” or “the Office”) for the purpose of providing a shared living environment that promotes sustained recovery from a substance use disorder. These settings emphasize developing mutual support and skills for people in recovery that will enable them to lead fulfilling lives in the community. Certification is voluntary and encouraged to build the New York State continuum of recovery supports and to emphasize the importance of recovery residences as an essential service.

##### **860.2 Legal Base.**

- (a) Section 19.09(b) of the Mental Hygiene Law (MHL) authorizes the Commissioner of the Office of Addiction Services and Supports to adopt regulations necessary and proper to implement any matter under their jurisdiction.
- (b) Section 32.05-a of the MHL authorizes the Commissioner of the Office of Addiction Services and Supports to adopt regulations necessary to issue operating certificates for recovery residences.
- (c) Section 32.01 of the MHL authorizes the Commissioner of the Office of Addiction Services and Supports to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by article 32 of the MHL.
- (d) Section 32.06 of the MHL authorizes the Commissioner of the Office of Addiction Services and Supports to adopt any regulation necessary to effectuate the provisions of section 32.06 of the MHL which prohibit certain financial practices by providers of substance use disorder services.
- (e) Section 32.07(a) of the MHL authorizes the Commissioner of the Office of Addiction Services and Supports to adopt regulations to effectuate the provisions and purposes of article 32 of the MHL.

##### **860.3 Applicability.**

- (a) This Part applies to any recovery residence certified by the Office pursuant to this Part to provide housing for individuals recovering from a substance use disorder.
- (b) Certification pursuant to this Part is voluntary and is not required for recovery residences to provide housing that supports recovery. However, only those recovery residences that are certified pursuant to this Part may hold themselves out to be a “Certified Recovery Residence” and be listed by the Office as a Certified Recovery Residence.

## 860.4 Definitions.

- (a) “Assertive Linkages” means a strategy designed to ensure a resident reaches the next type of care and/or becomes connected to a recovery support resource. Linkages involve direct actions for warm handoffs. Examples may include: an in-person introduction directly to the next type of care/resource and/or transportation with staff or volunteers to referral location.
- (b) “Harm reduction” is a set of practical strategies and ideas aimed at reducing the negative consequences associated with substance use.
- (c) “Lived Experience” means individuals who self-identify as having personally experienced substance use disorder or indirectly experience substance use disorder through family members.
- (d) “Medication for Addiction Treatment” or “MAT” means treatment of a substance use disorder, i.e., substance use disorder and concomitant conditions with medications requiring a prescription or order from an authorized prescribing professional.
- (e) “Naloxone” means medication that is used to reverse an opioid overdose.
- (f) “Recovery” means a process of change through which individuals improve their health and wellness, live self-directed lives, and strive to reach their full potential.
- (g) “Recovery Plan” means a written plan to support an individual in their recovery journey, which may include steps to maintain and sustain recovery, as well as steps to take in the event of a recurrence of use. Recovery planning is strength-based and focuses on individual capacities, preferences, and goals. It supports the individual’s choices and is recovery-oriented. Plans may be developed solely by the individual or in collaboration with residence leadership.
- (h) “Recovery Residences” means a unique and essential non-clinical service in the OASAS continuum of care for recovery from substance use disorder. Recovery Residences provide a home-like environment. They incorporate the social model of recovery, social determinants of health, and recovery capital in order to honor the multiple pathways to recovery. Recovery residences provide safe, quality housing by utilizing a common set of standards and code of ethics in their operations, while also linking individuals to a Recovery Oriented System of Care.
- (i) “Residence” means the physical location or premises in which ongoing recovery residence services are offered for individuals recovering from substance use disorder.
- (j) “Residence Manager” means a person within the leadership structure who has knowledge and experience in recovery and recovery housing. They have the responsibility for managing and coordinating the Recovery Residence, in compliance with agency policies and procedures.
- (k) “Residents” are individuals who reside in a certified recovery residence while working to improve their health and wellness, live a self-directed life, take positive steps in their recovery journey, and strive to reach their full potential.
- (l) “Staff” for the purposes of this Part means residence managers, full or part time employees, interns, peers, and/or volunteers.

## 860.5 General provisions applicable to all certified recovery residences.

- (a) Policies and procedures. The governing authority of the residence must approve written policies, procedures, and methods governing the provision of services to residents in compliance with this Part. Such policies, procedures, and methods shall reflect nationally and locally recognized best practices for oversight of a certified recovery residence. These policies, procedures, and methods must address, at a minimum:
  - (1) acceptance into the residence, including admission criteria;
  - (2) successful completion of stay;

- (3) termination of residency, including referral procedures;
  - (4) staffing, including, but not limited to, training and use of student interns, peers and volunteers, and compliance with the criminal history review policies of Part 805 of this Title;
  - (5) resident financial obligations;
  - (6) management of all funds received and expended;
  - (7) maintenance of residence;
  - (8) encouraging and monitoring resident recovery through the development of a recovery plan;
  - (9) monitoring the recovery environment of the residence;
  - (10) recordkeeping and incident reporting in accordance with guidance issued by the Office, with requirements including but not limited to:
    - (i) Incident management plans;
    - (ii) Incident review committees;
    - (iii) Reporting of incidents to the Office;
    - (iv) Written incident reports;
    - (v) Compliance with investigations and corrective actions; and
    - (vi) Maintaining and release of records.
  - (11) confidentiality, including collecting and protecting resident data, personal health information, and other sensitive information in accordance with state and federal laws, rules, and regulations;
  - (12) procedures for medical and environmental emergencies, including but not limited to resident substance use crises, emergency preparedness, and fire prevention;
  - (13) ensuring a resident's school-aged children are provided with appropriate educational services when applicable;
  - (14) resident rights and responsibilities, including grievance policies and processes;
  - (15) good neighbor guidelines, including neighborhood courtesy rules, disputes, and concerns; and
  - (16) MAT (Medication Assisted Treatment), including allowing all forms of legally prescribed MAT by residents, and non-discrimination for admission eligibility;
- (b) The provider shall develop and implement written policies and procedures on the use of prescription and over-the-counter medications by residents, which must include:
- (1) Self-administration of medication for residents who take medication;
  - (2) Safe storage of medication and medical supplies in a locked container;
  - (3) Policy on safe disposal of medication (i.e., if left behind by a resident, etc.); and
  - (4) Use of and sharing of prescription and over the counter medications.
- (c) The certified recovery residence shall develop and implement written policies and procedures for an individual's residency, which shall include, but not be limited to:
- (1) Resident eligibility criteria;
  - (2) Guidance for successful completion of residency by meeting a resident's recovery, personal or financial goals, or social-emotional or other needs;
  - (3) Criteria for terminating residency, including involuntary termination, which must include assertive linkages to emergency medical assessment, treatment services, recovery services, and/or safe housing alternatives, and a resident's right to appeal any decision to terminate residency and procedures for such process, consistent with guidance issued by the Office and New York State Real Property Actions and Proceedings Law if applicable; and
  - (4) Prohibition against denying admission to a certified recovery residence based on factors referenced in section 860.9.

- (d) The certified recovery residence provider shall develop and implement written policies and procedures that prohibit the certified recovery residence provider or staff of the certified recovery residence from:
  - (1) Requiring a resident to sign a document relinquishing the resident's public assistance benefits, including medical assistance benefits, cash assistance, Supplemental Security Income, and Supplemental Nutrition Assistance Program benefits;
  - (2) Requiring a resident to surrender cash or sign over a payment;
  - (3) Borrowing money from a resident or lending money to a resident;
  - (4) Buying property from a resident or selling property to a resident;
  - (5) Directly or indirectly soliciting or accepting a commission, fee, or anything of monetary or material value from residents, other related individuals, third-party entities, or referral sources, beyond specified rent established in writing at the time of residency; and
  - (6) Directly assisting in managing residents' personal finances.
- (e) Certified recovery residences shall comply with requirements for incident reporting to the Office, in compliance with section 836.7 of Part 836 of this Title.
- (f) Certified recovery residences shall develop and implement written policies and procedures for managing grievances from residents, family members, and community members, which must include procedures for informing residents, family members, and community members of the complaint process, including the ability to file a complaint with the Office.
- (g) Emergency medical kit.
  - (1) All residences must maintain an emergency medical kit at each certified location; such kit must include basic first aid and naloxone emergency overdose prevention kits in a quantity sufficient to meet the needs of the residence. Residences must develop and implement a plan to have all staff and residents trained in the use of a naloxone overdose prevention kit such that it is available for use during all hours of operation.
  - (2) All staff and residents must be notified of the existence and location of the naloxone overdose prevention kits.
  - (3) All residences shall comply with any additional overdose prevention and intervention guidance released by the Office.
- (h) Certified capacity. The certified bed capacity of each certified recovery residence may not be exceeded at any time without the express authorization of the Office and in accordance with the following exceptions:
  - (1) in cases of emergency and unexpected surges in demand where no alternative options are available;
  - (2) failure to temporarily accept individuals into the residence would jeopardize their immediate health and safety;
  - (3) where the excess of capacity would be time-limited; and
  - (4) at the discretion of the Office.

## 860.6 Staffing.

- (a) All certified recovery residences shall have a residence manager who is responsible for the management of the certified recovery residence, including staff. The residence manager shall:
  - (1) have at least one year of professional experience either in the recovery residence field or related substance use disorder and housing fields, prior to appointment as residence manager; or
  - (2) have at least one year in recovery (lived experience) and at least one year history of former residency in recovery housing, prior to appointment as residence manager.

- (b) All residence managers must have their CRPA (Certified Recovery Peer Advocate). If they do not have their CRPA at time of appointment, they must gain such certification within one year of appointment.
- (c) Operators with multiple recovery residences shall maintain sufficient staff, including residence managers, to meet the needs of the population served.
- (d) General staffing shall be on-site or on-call sufficient to meet the emergent needs of the residents.
- (e) Volunteers, peers, or interns. A certified recovery residence may utilize volunteers, peers, or interns, on a salaried or non-salaried basis if such volunteers, peers, or interns are provided supervision by full-time staff and necessary didactic education from both internal and external sources.
- (f) All staff who will have the potential for, or may be permitted, regular and substantial unsupervised or unrestricted contact with residents are subject to criminal history reviews consistent with Part 805 of this Title.
- (g) All staff (including volunteers, peers, and residence managers) shall be trained at least annually on best practices in the recovery field, as identified in Guidance issued by the Office.

### 860.7 Supporting Residents who Return to Substance Use.

- (a) Residents are expected to reside within and comply with the terms established by the recovery residence around living within a substance free environment (excluding medications lawfully prescribed or dispensed). However, certified recovery residences must be prepared to provide support for residents who return to substance use. Certified recovery residences must support residents who return to substance use by providing assertive linkages to:
  - (1) Emergency medical care;
  - (2) Peer support(s); and/or
  - (3) Referrals to:
    - (i) Substance use disorder treatment programs;
    - (ii) Recovery services; and/or
    - (iii) Safe housing alternatives.
- (b) In addition, certified recovery residences must also:
  - (1) Provide transportation to referrals listed above; and
  - (2) Call resident's listed Emergency Contact.
- (c) Certified recovery residences shall establish relationship agreements with community-based substance use disorder treatment programs to facilitate referral to treatment and other services as needed.

### 860.8 Safety and Housing Standards.

- (a) Residences shall, at minimum, meet all safety requirements of multiple dwellings imposed by applicable laws, including Multiple Dwelling Law, Multiple Residence Law, and Real Property Actions and Proceedings Law.
- (b) Residences shall meet all applicable requirements in regard to capacity of residents as defined in Multiple Dwelling Law, Multiple Residence Law, Real Property Law, and any additional federal, state, or local laws.
- (c) In addition, all residences shall comply with the requirements of Part 814 of this Title. For the purposes of Part 814 compliance, certified recovery residences shall be deemed residential facilities, however, certified recovery residences shall be exempt from:
  - (1) The same requirements of section 814.4(c) as supportive living facilities; and
  - (2) The requirements of section 814.6(a)(1)(iii) for maximum capacity in dormitory type residences.

- (d) Sanitary facilities must be provided and must consist of, at a minimum, one toilet, one sink and one tub or shower for every six residents.
- (e) In addition, all residences shall meet the following requirements unless federal, state, or local laws or codes provide for stricter standards:
  - (1) Have common areas large enough to support group meetings and resident committees;
  - (2) Make entertainment and recreational spaces, kitchens, and bathrooms open to all staff, residents, and their guests, as defined in residence policies and procedures;
  - (3) Residents shall have:
    - (i) Personal, private, and secure storage space;
    - (ii) Access at all times to food, safe and hygienic food storage space, and a kitchen; and
    - (iii) Access to laundry facilities.
  - (4) Lock boxes for the storage of medication by residents.
- (f) Certified recovery residences shall promote a safe and healthy environment. To support a safe and healthy environment, certified recovery residences shall:
  - (1) Provide a substance free environment (excluding medications lawfully prescribed or dispensed);
  - (2) ensure the availability of safe, secure storage options for residents' medication and medical supplies;
  - (3) Identify and have relationship agreements to facilitate referrals to supportive treatments, physical health care, mental health care, social services, harm reduction services, and other services available in the community;
  - (4) Collect emergency contact information; and
  - (5) Provide for regular, optional meetings of residents for recovery support.

## 860.9 Resident Rights and Obligations.

Residents of certified recovery residences shall retain rights as established in a residency agreement, or equivalent document, in accordance with applicable New York State law(s), including but not limited to the New York State Real Property Actions and Proceedings Law.

- (a) Certified recovery residences are required to provide residents with:
  - (1) A residency agreement, or equivalent document;
  - (2) copies of all documents signed by the resident;
  - (3) copies of all policies and procedures related to resident behavior and expectations;
  - (4) access to all other policies and procedures of the certified recovery residence; and
  - (5) a residence that is safe, sanitary, and habitable.
- (b) Certified recovery residences shall establish resident governance structures to allow residents reasonable involvement in the governance and management of the certified recovery residence.
- (c) Residents shall have the right to access healthcare, community resources, and social support services, including mental health and substance use disorder treatment services (including MAT), from the provider of their choosing. The certified recovery residence may not require an individual to attend or prohibit the individual from attending specific programs or services, or take medications lawfully prescribed or dispensed.
- (d) Residents shall have the right to pursue employment in establishments of their choosing that are not affiliated with the operator of the recovery residence in which they reside.

- (e) Residents shall develop and self-direct their personal recovery plan in a timely fashion, with support of residence leadership in order to take positive steps in recovery while building recovery capital. Plans will be reviewed at regular intervals, and updated by the resident when goals are met, or new goals identified.
- (f) Residents agree to reside in an environment that is free from alcohol and illicit controlled substances.
- (g) Certified recovery residences shall not deny residency to an individual who meets resident eligibility criteria based solely on, but not limited to:
  - (1) prior treatment history;
  - (2) referral source;
  - (3) pregnancy;
  - (4) history of contact with the criminal justice system;
  - (5) HIV status;
  - (6) physical or mental disability;
  - (7) actual or perceived gender or gender identity;
  - (8) actual or perceived sexual orientation;
  - (9) national origin;
  - (10) race or ethnicity;
  - (11) language;
  - (12) culture;
  - (13) marital status;
  - (14) military status;
  - (15) familial status;
  - (16) religion;
  - (17) age; or
  - (18) use of medications for the treatment of a medical, mental health or substance use disorder, including prescribed MAT.

## 860.10 Terminating Residency.

- (a) Residents may only be removed from possession of a dwelling at a provider's residence consistent with their residency agreement or similar document, the New York State Real Property Actions and Proceedings Law, and/or any other applicable laws and regulations.
  - (1) Providers may only move to terminate residency of a resident consistent with the terms of the residency agreement. If terminating outside of the residency agreement, proper written notice as defined by New York State Real Property Actions and Proceedings Law must be provided.
- (b) If residency is terminated because of a return to use, the provider must ensure that the resident has received support from the recovery residence as defined in 860.7(a).
- (c) Length of stay in the residence is a resident-driven choice according to their individual recovery journey. Providers may not independently limit a resident's length of stay, if residency agreement is adhered to otherwise, and may not include a maximum length of stay in resident agreements.

## 860.11 Certification.

- (a) Recovery residences certified pursuant to this Part shall comply with the requirements of this Title, along with guidance issued by the office on establishment, incorporation, and certification, unless specifically exempted, including:

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- (1) Applications requiring full review;
  - (2) Applications requiring administrative review;
  - (3) Prior consult and community board outreach;
  - (4) Standards for approval of an application, including but not limited to:
    - (i) Public need for recovery support service;
    - (ii) Character and competence of applicant;
    - (iii) Financial stability and resources;
    - (iv) Criminal history information review;
    - (v) Required policies and procedures;
    - (vi) Approval of leases and lease terms, including prior approval by landlord of rented property to operate a recovery residence; and
    - (vii) Approval of not-for-profit or business corporations, including board of directors.
  - (5) Application forms provided by the office, along with required supplemental information and required signatures; and
  - (6) Mandatory inspections and reviews of certified residences.
- (b) An initial operating certificate authorizing the provision of new services shall be issued for a period of no longer than one year and may be subsequently renewed in accordance with approval by the Office.
  - (c) No applicant approved for certification shall provide the approved services until the effective date indicated on the operating certificate issued by the Commissioner.
  - (d) Applicants shall have the opportunity to file an appeal upon denial or limitation of application approval.
  - (e) Any operating certificate may, on written notice to the provider of services, be suspended, revoked, or limited upon non-compliance.
  - (f) Requests for certification by recovery residences shall be in the form of a written application, which shall include the application materials identified in the Recovery Residence Standards. Such application shall be submitted to both the Office's Bureau of Certification and the appropriate Regional Office serving the area in which the applicant is located. Office staff may make an onsite visit to the residence prior to certifying the recovery residence.
  - (g) In accordance with the provisions of this Part, revisions to the policies and procedures of the recovery residence and initiation of the regulatory action as necessary and appropriate may be required if the residence does not maintain the minimum standards for certification.
  - (h) Certification in accordance with the provisions of this Part is voluntary. A recovery residence that is not certified may not hold itself out as a "Certified Recovery Residence", shall not be listed as such by the Office, and shall not be eligible for any funding opportunities offered by the Office.
  - (i) The Office shall maintain a list of certified recovery residences and post the list on the Office's website.
  - (j) The Office may only list certified recovery residences on its website.

## 860.12 Severability.

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provisions or applications, and to this end the provisions of this Part are declared to be severable.