ASSEMBLY, No. 3959

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:
Assemblyman JOHN V. AZZARITI JR., M.D.
District 39 (Bergen)
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District 36 (Bergen and Passaic)
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District 24 (Morris, Sussex and Warren)

SYNOPSIS

Regulates residential mental health treatment facilities.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/15/2025)

AN ACT concerning residential mental health treatment facilities, amending P.L.1992, c.160, and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Commissioner" means the Commissioner of Health.

"Mental health condition" shall have the same meaning as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders and be consistent with generally recognized independent standards of current medical practice.

"Narcotic drug" means any narcotic, drug, or controlled dangerous substance, as defined under federal or State law.

"Patient" means a person who suffers from a mental health condition, or who is addicted to, or otherwise has a physical or mental impairment from the use of substances, including, but not limited to, narcotic drugs or alcohol, or both, and who requires continuing care in a residential mental health treatment facility.

"Residential mental health treatment facility" means a facility, or a distinct part of a facility that provides care for the treatment of a mental health condition, for 24 or more consecutive hours to two or more patients who are not related to the governing authority of the facility or its members by marriage, blood, or adoption. "Residential mental health treatment facility" shall include: facilities that provide residential mental health treatment services to adolescents, persons with dependent children, and adults; extended care facilities; long-term residential facilities; short-term residential facilities; and any establishment, facility, or institution, public or private whether operated for profit or not, which primarily offers, or purports to offer, maintain, or operate facilities for the residential diagnosis, care, or treatment of mental health conditions, or substance use disorders, or both, to patients through a structured recovery environment involving professional clinical services. "Residential mental health treatment facilities" shall not include a residential substance use disorders treatment facility or program, or any hospital-based mental health stabilization program or similar hospital-based program providing voluntary or involuntary in-patient mental health services that is licensed pursuant to Title 30 of the Revised Statutes.

"Residential substance use disorders treatment facility or program" shall have the same meaning as defined in N.J.A.C.8:111-1.3

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

2. (New section) a. Residential mental health treatment facilities shall:

(1) provide mental health services or treatment in a manner that is consistent with the Level 3.5 level of care according to the American Society of Addiction Medicine in a 24 hours per day and seven days per week, structured living environment for patients who require such support, and in instances in which inpatient hospitalization treatment is unnecessary;

(2) provide health services or treatment for limited periods of time with the goal of preparing patients to move into the community at lower levels of care; and

(3) provide health services or treatment without any retrospective review or concurrent review of medical necessity.

b. No residential mental health treatment facility shall operate within this State except pursuant to a license obtained from the commissioner, upon an application made therefor. The application shall be made upon forms furnished by the commissioner, and shall include: the location of the residential mental health treatment facility; the names of the facility's owners; and a description of the facility. The applicant shall be required to furnish evidence of the facility's ability to comply with the minimum standards for licensure established by the commissioner and of the good moral character of the facility's owners. Any substantial change in the facts set forth in the application shall be reported to the commissioner within 10 days after the occurrence thereof.

c. The commissioner shall issue a license to a residential mental health treatment facility if the applicant is of good moral character and the facility is in compliance with the provisions of P.L. , c. (C.) (pending before the Legislature as this bill). There shall be a presumption in favor of an applicant's good moral character if the applicant is currently licensed and in good standing in this State as a mental health program pursuant to N.J.A.C.8:121 et seq. A license issued under this subsection shall not be transferable, assignable, or applicable to any premises or proprietor other than those specified in the application. A copy of the license shall be conspicuously displayed within the residential mental health treatment facility at all times.

d. A residential mental health treatment facility shall not be licensed to operate at the same location as a residential substance use disorders treatment facility or program.

e. The Commissioner of Health shall, within 90 days after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations establishing minimum standards for the licensure of residential mental health treatment facilities and the treatment of patients therein. If feasible, the commissioner shall adopt rules and regulations that are structured similarly to the regulations which are

applicable to residential substance use disorders treatment facilities or programs, as set forth in N.J.A.C.8:111 et seq.

3. Section 19 of P.L.1992, c.160 (C.26:2H-7a) is amended to read as follows:

19. Notwithstanding the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) to the contrary, the following are exempt from the certificate of need requirement:

Community-based primary care centers;

Outpatient drug and alcohol services;

Hospital-based medical detoxification for drugs and alcohol;

Ambulance and invalid coach services;

Mental health services which are non-bed related outpatient services;

Full service diagnostic catheterization services, primary angioplasty services, and elective angioplasty services in accordance with a license issued under section 2 of P.L.2021, c.18 (C.26:2H-7.23);

Residential health care facility services;

Residential mental health treatment facilities as defined in section 1 of P.L. , c. (C.) (pending before the Legislature as this bill);

Dementia care homes;

Capital improvements and renovations to health care facilities;

Additions of medical/surgical, adult intensive care and adult critical care beds in hospitals;

Inpatient special psychiatric beds used solely for services for patients with co-occurring mental health and substance use disorders;

Replacement of existing major moveable equipment;

Inpatient operating rooms;

Alternate family care programs;

Hospital-based subacute care;

Ambulatory care facilities;

Comprehensive outpatient rehabilitation services;

Special child health clinics;

New technology in accordance with the provisions of section 18 of P.L.1998, c.43 (C.26:2H-7d);

Transfer of ownership interest except in the case of an acute care hospital;

Change of site for approved certificate of need within the same county;

Additions to vehicles or hours of operation of a mobile intensive care unit;

Relocation or replacement of a health care facility within the same county, except for an acute care hospital;

Continuing care retirement communities authorized pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.);

Magnetic resonance imaging;
Adult day health care facilities;
Pediatric day health care facilities;
Chronic or acute renal dialysis facilities; and
Transfer of ownership of a hospital to an authority in accordance with P.L.2006, c.46 (C.30:9-23.15 et al.).
(cf: P.L.2021, c.18, s.4)

4. This act shall take effect immediately.

STATEMENT

This bill regulates residential mental health treatment facilities.

Under the bill, residential mental health treatment facilities, as defined in the bill, are to: (1) provide mental health services or treatment in a manner that is consistent with the Level 3.5 level of care according to the American Society of Addiction Medicine in a 24 hours per day and seven days per week, structured living environment for patients who require such support, and in instances where inpatient hospitalization treatment is unnecessary; (2) provide health services or treatment for limited periods of time with the goal of preparing patients to move into the community at lower levels of care; and (3) provide health services or treatment without any retrospective review or concurrent review of medical necessity.

The bill provides that no residential mental health treatment facility is to operate within this State except pursuant to a license obtained from the Commissioner of Health (commissioner), upon an application made therefor. The applicant is to be required to furnish evidence of the facility's ability to comply with the minimum standards for licensure established by the commissioner and of the good moral character of the facility's owners.

Under the bill, the commissioner is to issue a license to a residential mental health treatment facility if the applicant is of good moral character and the facility is in compliance with the bill's provisions. There is to be a presumption in favor of an applicant's good moral character if the applicant is currently licensed and in good standing in this State as a mental health program pursuant to N.J.A.C.8:121 et seq. A residential mental health treatment facility is not to be licensed to operate at the same location as a residential substance use disorders treatment facility or program.

The bill amends section 19 of P.L.1992, c.160 (C.26:2H-7a) to exempt residential mental health treatment facilities from the certificate of need requirement. The certificate of need program is a regulatory process that is administered by the Office of Certificate of Need and Healthcare Facility Licensure with the New Jersey Department of Health (DOH). Under the certificate of need

program, certain health care facilities are required to obtain the DOH's approval prior to constructing, relocating, or renovating their facilities.

Finally, the bill provides that the commissioner is to adopt rules and regulations establishing minimum standards for the licensure of residential health treatment facilities and the treatment of patients therein, and if feasible, structure the rules and regulations similarly to the regulations which are applicable to residential substance use disorders treatment facilities or programs, as set forth in N.J.A.C.8:111 et seq.