

117TH CONGRESS
1ST SESSION

S. 2901

To amend title V of the Public Health Service Act to provide for increased oversight of recovery housing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2021

Mr. WHITEHOUSE (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title V of the Public Health Service Act to provide for increased oversight of recovery housing, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Excellence in Recovery
5 Housing Act”.

1 **SEC. 2. CLARIFYING THE ROLE OF SAMHSA IN PROMOTING**
2 **THE AVAILABILITY OF HIGH-QUALITY RECOV-**
3 **ERY HOUSING.**

4 Section 501(d) of the Public Health Service Act (42
5 U.S.C. 290aa) is amended—

6 (1) in paragraph (24)(E), by striking “and” at
7 the end;

8 (2) in paragraph (25), by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(26) collaborate with national accrediting enti-
12 ties and reputable providers and analysts of recovery
13 housing services and all relevant Federal agencies,
14 including the Centers for Medicare & Medicaid Serv-
15 ices, the Health Resources and Services Administra-
16 tion, other offices and agencies within the Depart-
17 ment of Health and Human Services, the Office of
18 National Drug Control Policy, the Department of
19 Justice, the Department of Housing and Urban De-
20 velopment, and the Department of Agriculture, to
21 promote the availability of high-quality recovery
22 housing for individuals with a substance use dis-
23 order.”.

1 **SEC. 3. DEVELOPING GUIDELINES FOR STATES TO PRO-**
 2 **MOTE THE AVAILABILITY OF HIGH-QUALITY**
 3 **RECOVERY HOUSING.**

4 Title V of the Public Health Service Act is amended
 5 by inserting after section 550 of such Act (42 U.S.C.
 6 290ee–5) the following:

7 **“SEC. 550A. DEVELOPING GUIDELINES FOR STATES TO**
 8 **PROMOTE THE AVAILABILITY OF HIGH-QUAL-**
 9 **ITY RECOVERY HOUSING.**

10 “(a) IN GENERAL.—Not later than 1 year after the
 11 date of enactment of this section, the Secretary, acting
 12 through the Assistant Secretary, shall develop, and pub-
 13 lish on the website of the Substance Abuse and Mental
 14 Health Services Administration, consensus-based guide-
 15 lines and nationally recognized standards for States to
 16 promote the availability of high-quality recovery housing
 17 for individuals with a substance use disorder. Such guide-
 18 lines shall—

19 “(1) be developed in consultation with national
 20 accrediting entities, reputable providers and analysts
 21 of recovery housing services, and States and be con-
 22 sistent with the best practices developed under sec-
 23 tion 550; and

24 “(2) to the extent practicable, build on existing
 25 best practices and suggested guidelines developed

1 previously by the Substance Abuse and Mental
2 Health Services Administration.

3 “(b) PUBLIC COMMENT PERIOD.—Before finalizing
4 guidelines under subsection (a), the Secretary shall pro-
5 vide for a public comment period.

6 “(c) EXCLUSION OF GUIDELINE ON TREATMENT
7 SERVICES.—In developing the guidelines under subsection
8 (a), the Secretary may not include any guideline or stand-
9 ard with respect to substance use disorder treatment serv-
10 ices.

11 “(d) SUBSTANCE USE DISORDER TREATMENT SERV-
12 ICES.—In this section, the term ‘substance use disorder
13 treatment services’ means items or services furnished for
14 the treatment of a substance use disorder, including—

15 “(1) medications approved by the Food and
16 Drug Administration for use in such treatment, ex-
17 cluding each such medication used to prevent or
18 treat a drug overdose;

19 “(2) the administering of such medications;

20 “(3) recommendations for such treatment;

21 “(4) clinical assessments and referrals;

22 “(5) counseling with a physician, psychologist,
23 or mental health professional (including individual
24 and group therapy); and

25 “(6) toxicology testing.”.

1 **SEC. 4. COORDINATION OF FEDERAL ACTIVITIES TO PRO-**
 2 **MOTE THE AVAILABILITY OF HIGH-QUALITY**
 3 **RECOVERY HOUSING.**

4 Section 550 of the Public Health Service Act (42
 5 U.S.C. 290ee–5) is amended—

6 (1) by redesignating subsections (e), (f), and
 7 (g) as subsections (g), (h), and (i), respectively; and

8 (2) by inserting after subsection (d) the fol-
 9 lowing:

10 “(e) COORDINATION OF FEDERAL ACTIVITIES TO
 11 PROMOTE THE AVAILABILITY OF HIGH-QUALITY RECOV-
 12 ERY HOUSING FOR INDIVIDUALS WITH A SUBSTANCE
 13 USE DISORDER.—

14 “(1) IN GENERAL.—The Secretary, acting
 15 through the Assistant Secretary, and the Secretary
 16 of Housing and Urban Development shall convene
 17 an interagency working group, co-chaired by the As-
 18 sistant Secretary and the Secretary of Housing and
 19 Urban Development and comprised of representa-
 20 tives of each of the Federal agencies described in
 21 paragraph (2) (referred to in this section as the
 22 ‘working group’) for the following purposes:

23 “(A) To increase collaboration, coopera-
 24 tion, and consultation among such Federal
 25 agencies, with respect to promoting the avail-
 26 ability of high-quality recovery housing.

1 “(B) To align the efforts of such agencies
2 and avoid duplication of such efforts by such
3 agencies.

4 “(C) To develop objectives, priorities, and
5 a long-term plan for supporting State, Tribal,
6 and local efforts with respect to the operation
7 of high-quality recovery housing that is con-
8 sistent with the best practices developed under
9 this section.

10 “(D) To coordinate inspection and enforce-
11 ment among Federal and State agencies.

12 “(E) To coordinate data collection on the
13 quality of recovery housing.

14 “(2) FEDERAL AGENCIES DESCRIBED.—The
15 Federal agencies described in this paragraph are the
16 following:

17 “(A) The Department of Health and
18 Human Services, including—

19 “(i) the Centers for Medicare & Med-
20 icaid Services;

21 “(ii) the Substance Abuse and Mental
22 Health Services Administration;

23 “(iii) the Health Resources and Serv-
24 ices Administration; and

25 “(iv) the Indian Health Service.

1 “(B) The Department of Housing and
2 Urban Development.

3 “(C) The Department of Agriculture.

4 “(D) The Department of Justice.

5 “(E) The Office of National Drug Control
6 Policy.

7 “(F) The Bureau of Indian Affairs.

8 “(G) The Department of Labor.

9 “(H) Any other Federal agency as the co-
10 chairs determine appropriate.

11 “(3) MEETINGS.—The working group shall
12 meet on a quarterly basis.

13 “(4) REPORTS TO CONGRESS.—Beginning not
14 later than 1 year after the date of enactment of this
15 section and annually thereafter, the working group
16 shall submit to the Committee on Energy and Com-
17 merce, the Committee on Ways and Means, the
18 Committee on Agriculture, and the Committee on
19 Financial Services of the House of Representatives
20 and the Committee on Health, Education, Labor,
21 and Pensions, the Committee on Agriculture, Nutri-
22 tion, and Forestry, and the Committee on Finance
23 of the Senate a report describing the work of the
24 working group and any recommendations of the

1 working group to improve Federal, State, or local
 2 policy with respect to recovery housing operations.

3 “(5) AUTHORIZATION OF APPROPRIATIONS.—

4 To carry out this subsection, there are authorized to
 5 be appropriated such sums as may be necessary for
 6 fiscal years 2022 through 2027.”.

7 **SEC. 5. NAS STUDY AND REPORT.**

8 (a) IN GENERAL.—Not later than 60 days after the
 9 date of enactment of this Act, the Secretary of Health and
 10 Human Services, acting through the Assistant Secretary
 11 for Mental Health and Substance Use, shall enter into an
 12 arrangement with the National Academies of Sciences,
 13 Engineering, and Medicine to conduct a study, which may
 14 include a literature review and case studies as appropriate,
 15 on—

16 (1) the quality and effectiveness of recovery
 17 housing in the United States, including the avail-
 18 ability in the United States of high-quality recovery
 19 housing and whether that availability meets the de-
 20 mand for such housing in the United States; and

21 (2) State, Tribal, and local regulation and over-
 22 sight of recovery housing.

23 (b) TOPICS.—The study under subsection (a) shall
 24 include a literature review of studies that—

1 (1) examine the quality of, and effectiveness
 2 outcomes for, the types and characteristics of cov-
 3 ered recovery housing programs listed in subsection
 4 (c); and

5 (2) identify the research and data gaps that
 6 must be filled to better report on the quality of, and
 7 effectiveness outcomes related to, covered recovery
 8 housing.

9 (c) TYPE AND CHARACTERISTICS.—The types and
 10 characteristics of covered recovery housing programs re-
 11 ferred to in subsection (b) consist of the following:

12 (1) Nonprofit and for-profit covered recovery
 13 housing.

14 (2) Private and public covered recovery housing.

15 (3) Covered recovery housing programs that
 16 provide services to—

17 (A) residents on a voluntary basis; and

18 (B) residents pursuant to a judicial order.

19 (4) Number of clients served, disaggregated to
 20 the extent possible by covered recovery housing serv-
 21 ing—

22 (A) 6 or fewer recovering residents;

23 (B) 10 to 13 recovering residents; and

24 (C) 18 or more recovering residents.

1 (5) Bedroom occupancy in a house,
2 disaggregated to the extent possible by—

3 (A) single room occupancy;

4 (B) 2 residents occupying 1 room; and

5 (C) more than 2 residents occupying 1
6 room.

7 (6) Duration of services received by clients,
8 disaggregated to the extent possible according to
9 whether the services were—

10 (A) 30 days or fewer;

11 (B) 31 to 90 days;

12 (C) more than 90 days and fewer than 6
13 months; or

14 (D) 6 months or more.

15 (7) Certification levels of staff.

16 (8) Fraudulent and abusive practices by opera-
17 tors of covered recovery housing and inpatient and
18 outpatient treatment facilities, both individually and
19 in concert, including—

20 (A) deceptive or misleading marketing
21 practices, including—

22 (i) inaccurate outcomes-based mar-
23 keting; and

24 (ii) marketing based on non-evidence-
25 based practices;

1 (B) illegal patient brokering;

2 (C) third-party recruiters;

3 (D) deceptive or misleading marketing
4 practices of treatment facility and recovery
5 housing online aggregators; and

6 (E) the impact of such practices on health
7 care costs and recovery rates.

8 (d) REPORT.—The arrangement under subsection (a)
9 shall require, by not later than 18 months after the date
10 of entering into the agreement—

11 (1) completing the study under such subsection;

12 and

13 (2) making publicly available (including through
14 publication on the internet) a report that contains—

15 (A) the results of the study;

16 (B) the National Academy’s recommenda-
17 tions for Federal, State, and local policies to
18 promote the availability of high-quality recovery
19 housing in the United States;

20 (C) research and data gaps;

21 (D) recommendations for recovery housing
22 quality and effectiveness metrics;

23 (E) recommended mechanisms to collect
24 data on those metrics, including with respect to
25 research and data gaps;

1 (F) recommendations to eliminate restric-
 2 tions by recovery housing that exclude individ-
 3 uals who take prescribed medications for opioid
 4 use disorder; and

5 (G) a summary of allegations, assertions,
 6 or formal legal actions on the State and local
 7 levels by governments and nongovernmental or-
 8 ganizations with respect to the opening and op-
 9 eration of recovery housing.

10 (e) DEFINITIONS.—In this subsection:

11 (1) The term “covered recovery housing” means
 12 recovery housing that utilizes compensated or volun-
 13 teer onsite staff who are not health care profes-
 14 sionals to support residents.

15 (2) The term “effectiveness outcomes” may in-
 16 clude decreased substance use, reduced probability of
 17 relapse or reoccurrence, lower rates of incarceration,
 18 higher income, increased employment, and improved
 19 family functioning.

20 (3) The term “health care professional” means
 21 an individual who is licensed or otherwise authorized
 22 by the State to provide health care services.

23 (4) The term “recovery housing” means a
 24 shared living environment that is or purports to
 25 be—

1 (A) free from alcohol and use of nonpre-
 2 scribed drugs; and

3 (B) centered on connection to services that
 4 promote sustained recovery from substance use
 5 disorders.

6 (f) AUTHORIZATION OF APPROPRIATIONS.—To carry
 7 out this section, there is authorized to be appropriated
 8 \$1,500,000 for fiscal year 2022.

9 **SEC. 6. FILLING RESEARCH AND DATA GAPS.**

10 Not later than 60 days after the completion of the
 11 study under section 5, the Secretary of Health and
 12 Human Services shall enter into an agreement with an ap-
 13 propriate entity to conduct such research as may be nec-
 14 essary to fill the research and data gaps identified in re-
 15 porting pursuant to such section.

16 **SEC. 7. GRANTS FOR STATES TO PROMOTE THE AVAIL-**
 17 **ABILITY OF HIGH QUALITY RECOVERY HOUS-**
 18 **ING.**

19 Section 550 of the Public Health Service Act (42
 20 U.S.C. 290ee–5), as amended by section 4, is further
 21 amended by inserting after subsection (e) (as inserted by
 22 section 4) the following:

23 “(f) GRANTS FOR IMPLEMENTING NATIONAL RECOV-
 24 ERY HOUSING BEST PRACTICES.—

1 “(1) IN GENERAL.—The Secretary shall award
2 grants to States (and political subdivisions of
3 States), Tribes, and territories—

4 “(A) for the provision of technical assist-
5 ance by national accrediting entities and rep-
6 utable providers and analysts of recovery hous-
7 ing services to implement the guidelines, nation-
8 ally recognized standards, and recommendations
9 developed under section 3 of the Excellence in
10 Recovery Housing Act and this section; and

11 “(B) to promote the availability of high-
12 quality recovery housing for individuals with a
13 substance use disorder and practices to main-
14 tain housing quality long term.

15 “(2) STATE ENFORCEMENT PLANS.—Beginning
16 not later than 90 days after the date of enactment
17 of this paragraph and every 2 years thereafter, as a
18 condition on the receipt of a grant under paragraph
19 (1), each State (or political subdivision of a State),
20 Tribe, or territory receiving such a grant shall sub-
21 mit to the Secretary, and make publicly available on
22 a publicly accessible website of the State (or political
23 subdivision of the State), Tribe, or territory—

24 “(A) the plan of the State (or political sub-
25 division of a State), Tribe, or territory, with re-

spect to the promotion of high-quality recovery housing for individuals with a substance use disorder located within the jurisdiction of such State (or political subdivision of a State), Tribe, or territory; and

“(B) a description of how such plan is consistent with the best practices developed under this section and guidelines developed under section 550A.

“(3) REVIEW OF ACCREDITING ENTITIES.—The Secretary shall periodically review, by developing a rubric to evaluate accreditation, the accrediting entities providing technical assistance pursuant to paragraph (1)(A).

“(4) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there is authorized to be appropriated \$10,000,000 for each of fiscal years 2023 through 2027.”.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 550 of the Public Health Service Act (42 U.S.C. 290ee–5), as amended by sections 4 and 7, is further amended by amending subsection (i) (as redesignated by such section 4) to read as follows:

“(i) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—To carry out this section,
2 there is authorized to be appropriated—

3 “(A) \$2,000,000 for fiscal year 2022; and

4 “(B) \$11,000,000 for each of fiscal years
5 2023 through 2027.

6 “(2) RESERVATIONS OF FUNDS.—For each of
7 fiscal years 2022 through 2027, of the amounts ap-
8 propriated under paragraph (1) for such fiscal year,
9 the Secretary shall reserve—

10 “(A) not less than \$1,000,000 to carry out
11 subsection (e); and

12 “(B) not less than \$10,000,000 to award
13 grants under paragraphs (1) and (2) of sub-
14 section (f).”.

15 **SEC. 9. REPUTABLE PROVIDERS AND ANALYSTS OF RECOV-**
16 **ERY HOUSING SERVICES DEFINITION.**

17 Section 550(h) of the Public Health Service Act (42
18 U.S.C. 290ee–5(i)), as redesignated by section 4, is
19 amended by adding at the end the following:

20 “(4) The term ‘reputable providers and analysts
21 of recovery housing services’ means recovery housing
22 service providers and analysts that—

23 “(A) use evidence-based approaches;

24 “(B) act in accordance with guidelines
25 issued by the Assistant Secretary;

1 “(C) have not been found guilty of health
 2 care fraud, patient brokering, or false adver-
 3 tising by the Department of Justice, the De-
 4 partment of Health and Human Services, or a
 5 Medicaid Fraud Control Unit;

6 “(D) have not been found to have violated
 7 Federal, State, or local codes of conduct with
 8 respect to recovery housing for individuals with
 9 a substance use disorder; and

10 “(E) do not employ individuals with a past
 11 conviction of criminal, domestic, or sexual vio-
 12 lence, or significant drug distribution, in the
 13 care or supervision of individuals.”.

14 **SEC. 10. TECHNICAL CORRECTION.**

15 Title V of the Public Health Service Act (42 U.S.C.
 16 290aa et seq.) is amended—

17 (1) by redesignating section 550 (relating to
 18 Sobriety Treatment and Recovery Teams) (42
 19 U.S.C. 290ee–10), as added by section 8214 of Pub-
 20 lic Law 115–271, as section 550B; and

21 (2) moving such section so it appears after sec-
 22 tion 550A (added by section 3 of this Act).

○