

## Sober Houses

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### Issue

This report provides information on (1) the structure and government oversight of Connecticut's "sober houses" and (2) recent legislation considered in Connecticut and other states. It is an update of OLR Report [2015-R-0129](#).

### Summary

Sober houses are residential facilities that provide a structured living situation for people who are in recovery from a substance abuse disorder. Connecticut Community for Addiction Recovery, an advocacy group, estimates there were approximately 240 sober houses in Connecticut as of 2015.

Sober houses generally do not provide treatment, but rather a place where people in similar circumstances can support one another in sobriety. Because sober houses do not provide treatment, they are typically not subject to state regulation. And, because people with substance abuse disorders are covered by the Americans with Disabilities Act and the federal Fair Housing Act, state and local zoning and other requirements meant to regulate them are subject to challenge.

The Department of Mental Health and Addiction Services (DMHAS) currently certifies 14 organizations to provide "supportive recovery housing services" (SRHS) at 19 different sites. An SRHS is a type of sober housing arrangement in which residents also receive case management assistance. In order to be certified, an organization must meet certain minimum standards and the homes must maintain certain minimum house rules. Certified organizations that provide SRHS receive reimbursement from DMHAS for the housing and case management services they provide to residents. DMHAS funds SRHS through a combination of federal grant money and state funds.

In recent years, Connecticut and other states have proposed bills to define and regulate sober houses. Some states, such as Hawaii and Massachusetts, enacted laws establishing voluntary registration and certification programs. Other states, such as California and New York, considered but did not pass similar legislation.

This session, the Connecticut legislature is considering several proposed bills to regulate sober homes. Among other things, these proposals would require sober homes to (1) register as a business with the municipality in which they are located and the Department of Public Health and (2) have opioid antagonists available on-site for residents to treat opioid overdoses.

## **Government Oversight**

Sober houses do not provide treatment; they provide a place where people can support one another in sobriety. In Connecticut, they are not licensed by any state agency or subject to state regulation solely as sober houses (they may be subject to building and fire safety codes based on their size).

### ***State Oversight – Supported Recovery Housing Services Program***

Advanced Behavioral Health (ABH) serves as the administrative services organization for DMHAS' Behavioral Health Recovery Program, which provides eligible participants with alcohol and substance abuse recovery services. ABH contracts with certain qualified community, faith, and peer organizations to provide sober housing and case management through its SRHS program. Organizations that contract with ABH to provide SRHS receive reimbursement for each resident who receives housing and case management services. In order for the organization to be certified and receive this reimbursement, the SRHS must include certain components, such as:

1. a clean, safe, substance-free living environment in which (a) on-site case management services are available at least eight hours per day, five days per week and (b) on call staff are available 24 hours per day, seven days per week;
2. case management to help residents get substance use treatment, community-based recovery services, or both, for sustained recovery;
3. qualified staff with an understanding of (a) substance use disorders, (b) co-occurring mental health disorders, and (c) recovery principles;
4. mechanisms to use data to monitor and inform program management for quality and improvement; and

5. commercial general liability insurance with minimum coverage of \$1 million per occurrence and \$3 million aggregate or a \$1 million general liability per occurrence and \$2 million general aggregate with a \$1 million umbrella ([ABH Request for Qualified Contractors](#)).

Residents in DMHAS-certified supported recovery housing must agree to follow several house rules, some of which include:

1. absolutely no alcohol or drug use on or off the premises (staff can request drug testing for residents, and discharge someone who refuses to comply);
2. no guests or visitors allowed in the house without staff consent;
3. clients may not borrow money from other clients or staff, and stealing anything results in immediate discharge;
4. clients must attend one weekly household meeting and at least (a) five self-help meetings per week during the first 30 days and (b) three self-help meetings per week during the second 30 days;
5. clients should begin looking for employment immediately and devote several hours per day to that search; and
6. clients must complete chores and adhere to the house curfew ([ABH SRHS Sample Forms](#)).

### ***Local Government Oversight***

Local governments sometimes try to restrict the establishment or operation of sober houses through zoning and housing codes, but federal law limits their ability to do so. People in recovery from substance abuse disorders are considered disabled under the Americans with Disabilities Act and the federal Fair Housing Act, particularly its 1988 amendments. The latter law specifically prohibits discrimination in the sale or rental of housing, or otherwise making unavailable or denying a dwelling to any buyer or renter, because of a disability. It requires governments to make “reasonable accommodations” to preclude such discrimination.

Nonetheless, some towns have tried to use zoning and other codes to restrict the establishment or operation of sober houses. In some cases, these municipal codes have been challenged in court. For example, in 1997, West Haven’s fire district sought to require Oxford House-Jones Hill to install additional safety equipment, and the city sought to restrict its operation because seven unrelated adults lived there. The sober house’s owner eventually applied for a special use exception to the

town's zoning rules, which was denied. The U.S. District Court held that (1) the town had refused to make a reasonable accommodation, (2) the fire code the district sought to enforce disparately impacted the sober house's residents (i.e., though neutral on its face, the code had a discriminatory effect), and (3) the city engaged in intentional discrimination against the residents.

On appeal, the appellate court upheld the reasonable accommodation and intentional discrimination rulings against the city but overturned the disparate impact ruling as to the fire district. Both courts permitted the house to continue. (*Tsombanidis, et. al. v. West Haven, et.al.*, 180 F. Supp. 2d 262 (2001), affirmed in part and overturned in part on appeal, 352 F. 3d 565 2d Cir (2003)).

## **Recent Legislation in Connecticut and Other States**

In recent years, bills to define and regulate sober houses have been enacted in several states, including Arizona, Hawaii, Massachusetts, and New Jersey. Other states, such as Connecticut, California, New Jersey, and New York have considered related bills. Below we provide some examples of these states' enacted and proposed legislation.

### ***Enacted Legislation***

#### *Arizona*

In 2016, the Arizona legislature passed a law that allows counties to adopt ordinance standards for structured sober living homes that comply with state and federal fair housing laws and the Americans with Disabilities Act. Such standards may require (1) written notice from each home of the property's name, address, owner and, if applicable, a copy of the lease; (2) supervision during all hours of the home's operation; and (3) the establishment and maintenance of an operation plan that facilitates rehabilitation and is consistent with local ordinances. Under the law, counties that adopt such standards may exclude from regulation homes that are subject to adequate oversight by another governmental entity or contractor ([ARS § 11-269.18](#)).

#### *Hawaii*

In 2014, the Hawaii legislature passed a law that requires the Department of Health to establish a voluntary "clean and sober homes registry" to assist individuals recovering from substance abuse find an environment that supports their recovery. The law prohibits homes from advertising as "registered clean and sober homes" unless they are registered and in good standing with the health department ([HRS § 321-193.7](#)).

### *Massachusetts*

In 2014, the Massachusetts legislature passed a [law](#) (see § 37) that required the Department of Public Health's (DPH) Bureau of Substance Abuse Services to establish and administer a voluntary training and accreditation program for operators of alcohol and drug free housing (sober homes). The law prohibits state agencies and other contracted entities from referring clients to homes that are not certified under the program. (It also specifies that it does not prohibit uncertified homes from operating or advertising as alcohol and drug free housing or from offering residence to individuals recovering from substance use disorders.) DPH began certifying the homes in January 2016 and the Massachusetts Alliance of Sober Housing [website](#) lists over 100 homes that are currently certified ([MGL ch. 17 § 18A](#)).

### *New Jersey*

In 2015, the legislature enacted a law requiring state colleges and universities that have 25% of their student body living on campus to provide a sober housing option by August 2019 ([2015 S-2377/A-3719](#) codified at [N.J.S.A § C.18A:3B-70](#)).

## ***Proposed Legislation***

### *California*

Over the past several years, the legislature has considered several bills regarding sober homes and related issues. For example, legislation proposed in 2014 would have exempted sober living homes from licensure as an adult alcoholism or drug abuse recovery or treatment facility and required sober living homes to meet certain requirements (2014 AB 2491). Most recently, a bill proposed in 2016 ([AB2255](#)) would create a voluntary certification program for sober living homes administered by the Department of Health Care Services and require the department to maintain a registry of certified sober living homes.

### *Connecticut*

During the 2017 session, the legislature is considering several proposed bills to regulate sober homes. For example, one proposal would require each sober house to (1) register as a business with the municipality in which it is located and the Department of Public Health and (2) have naloxone available on the premises for residents and train residents in administering the drug. (Naloxone is used to treat opioid overdoses.) Other proposals would require municipal certification or other types of regulation ([Proposed HB 5741](#) (2017), [Proposed HB 5761](#) (2017), [Proposed SB 441](#) (2017), [Proposed HB 6255](#) (2017), [Proposed HB 6278](#) (2015)).

### *New York*

In 2016, the legislature considered, but did not pass, legislation that would have required sober living homes in Suffolk County to obtain certification from the Office of Alcoholism and Substance Abuse Services. It would have established a certification process and fees, specified conditions for revoking certification, and established inspection and violation requirements ([2016 A5277](#)).

### *New Jersey*

This legislative session, the legislature is again considering several bills introduced in 2016 that would (1) specify that the Department of Human Services may regulate sober living homes and halfway houses as residential substance abuse aftercare facilities and (2) require facility owners and employees to complete criminal background checks (2016 [S1275/A2103](#) and 2016 [S200/A3360](#)).

Additionally, the legislature is considering a bill that would create a revolving loan program that provides loans to construct sober houses for eligible applicants who demonstrate that project costs are responsible and that the sober house will be responsibly managed once it is established (2016 A3998).

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