1. **Should recovery residences be regulated?**

   a. Yes. Oversight of recovery residences is appropriate and necessary.

   b. Some recovery residences are extensions of treatment provider programs currently licensed by the Department of Children & Family Service - Substance Abuse (DCF-SA). These entities should be exempt from further licensing and/or certification.

   c. The term "Recovery Residence" is a broad descriptor first introduced by the National Alliance of Recovery Residences. It refers specifically to four distinct levels of care offered by recovery housing providers.

	LEVEL I PEER-RUN	**LEVEL II** MONITORED	**LEVEL III** SUPERVISED	**LEVEL IV** SERVICE PROVIDER
Administrative	Democratically run Manual or P&P	House manager or senior resident Policy and Procedures	Organizational hierarchy Administrative oversight for service providers Policy and Procedures Licensing varies from state to state	Overseen organizational hierarchy Clinical and administrative supervision Policy and Procedures Licensing varies from state to state
Services	Drug screening House meetings Self-help meetings encouraged	House rules provide structure Peer run groups Drug screening House meetings Involvement in self-help and/or treatment services	Life skills development emphasis Clinical services utilized in outside community Service hours provided in house	Clinical services and programming are provided in house Life skill development
Residence	Generally single family residences	Primarily single family residences Possibly apartments or other dwelling types	Varies – all types of residential settings	All types – often a step down phase within a treatment center continuum of care May be a more institutional environment
Staff	No paid positions within the residence Perhaps an overseeing officer	At least 1 compensated person	Facility manager Certified staff or case managers	Credentialed staff

2. If yes, how should recovery residences be regulated?

a. FARR supports self-regulation through a voluntary certification process. FARR Certification is granted based on the recovery residence owner/operator's voluntary submission of documentation to support adherence to a set of industry ethics and standards, satisfactory onsite inspections (annual) and compliance with the FARR policy and procedure for grievance resolution.

b. DCF-Substance Abuse should stipulate that all licensed treatment providers restrict their referrals to recovery housing providers who are certified by a recognized authority.

c. Florida courts, probation departments and parole boards should be encouraged to follow this same referral requirement.

3. How many recovery residences operate in Florida? What is your methodology for arriving at this number?

a. This is a difficult question to answer. FARR is currently surveying treatment providers throughout Florida inquiring to whom these organizations refer clients who are seeking to reside in a recovery residence as a component of their aftercare planning. Based on the early responses, FARR estimates that there are approximately:

i. 800-1,200 unique recovery residence organizations within Florida

ii. Operating between 3,500-5,000 unique addresses

iii. And having a capacity of between 17,500-30,000 beds

4. What would be the feasibility, cost, and consequences of licensing, regulating, registering, or certifying recovery residences and their operators?

a. Feasibility:

i. Registration and voluntary self-regulation requires support from the state. While a percentage of recovery residence owner/operators will continue to submit applications to FARR for certification***, the larger percentage will only do so if their referral sources demand certification prior to making referrals***. While some in the treatment community have already adopted this practice (resulting in an increase in FARR Applicants) to ensure wide-spread compliance, the state, through DCF, should require licensed treatment providers to restrict referrals to recovery residences who are certified to be in "good standing" with a "recognized certification authority". FARR believes that this single DCF action ***would compel all legitimate recovery housing providers to seek certification***.

ii. In order for FARR to hold recovery residences accountable to comply with local ordinances, zoning, permitting and reasonable accommodation processes, the State of Florida should encourage local governments to adopt a uniform set of requirements for recovery residences. At present; there are far too many

unique processes & requirements (subject to change without notice) for FARR to measure and confirm compliance.

iii. A grace period of up to six (6) months to complete application is recommended and a grace period of an additional 6 months (from the date of application) for the successful completion of the certification process is also recommended. FARR is not equipped to process and physically inspect all properties throughout the state in less than one year.

iv. While recovery residences require oversight, the much larger problem lies with treatment providers who are already licensed by DCF-SA. Due to recent budget cuts that resulted in the significant downsizing of DCF Regional Substance Abuse staffing, treatment providers are now sprouting like weeds, particularly in the South Florida region. Many of these are out-patient or intensive out-patient programs which form alliances with local recovery residences to provide housing for the out-of-town clients to whom these treatment providers market themselves. Some have even entered into a drug testing lab joint venture wherein the treatment provider orders excessive drug tests for insured clients and use the proceeds derived from insurance claims to fund the 'rent' at the recovery residence. There is little to no oversight of these licensed treatment providers. The "bad actors" know that the sheriff has left town and are taking full advantage of her absence. Otherwise "good operators" in the recovery residence world are being lured into these Ponzi schemes. The state needs to form a task force to address these issues before they corrupt the entire treatment community. Ultimately; it will be the consumer, Florida citizens in need of substance abuse treatment and responsible aftercare, who will pay the price for our collective failure to restore order to this business and health care sector.

b. Cost:

i. FARR (Non-Profit) annual budget for administrative/operational expenses is $100,000. Initial application & inspections fees range from a low of $225.00 to a high of $300.00, making certification affordable for all providers while providing FARR sufficient operational revenue.

ii. FARR revenue originates from application & inspection fees, re-inspection fees, grants and private donations from our" Friends of FARR" and "Partners in Excellence" programs.

iii. FARR enjoys significant volunteer participation in various positions & functions

c. Consequences:

i. Provided that the aforementioned DCF-SA referral restriction is implemented, the anticipated consequences are:

- All legitimate recovery residences will apply for certification

- All owner/operators and their staff will successfully complete training specific to the ethics and standards of the certifying entity as well as best practices training for each distinct level of care.
- Recovery Residences would be held accountable to provide services appropriate to their certified level of care (see FARR Levels 1-3). This also holds recovery residences accountable to not offer and/or advertise treatment services unless they are so licensed (see FARR Level 4) by DCF-SA.
- Many applicants will be required to "raise the bar" to meet FARR Ethics & Standards and will fail to meet FARR requirements.
- Failure to secure certification will result in the closure of many of these residences due to loss of revenue caused by the aforementioned treatment provider referral restriction.
- Failure to voluntarily apply for & be granted certification may provide local code enforcement officers the opportunity to utilize existing zoning regulations to force compliance or cease operations.
- ***Notes regarding potential unintended consequences***:
    - ***a.*** Location data for recovery residences should not be made available to the public. Many persons residing in recovery residences have recently escaped abusive relationships. Providing location data puts these persons at risk.
    - ***b.*** Many of the 'good actor' or 'solid citizen' recovery housing own/operators and staff acquired felony records prior to achieving sobriety themselves. Background check requirements for registration, licensing and/or certification must anticipate this fact and include common sense provisions for evaluating their social and legal behavior since entering recovery. These are the people best suited to provide this level of care and it's vital that background checks do not exclude them from owning, operating and managing a recovery residence unless there are recent convictions of crimes against persons or institutions which demonstrate they have not amended those behaviors.

5. If there were to be a regulating body, what is the appropriate level of government for it to operate?

    a. Government is not the appropriate regulatory body. Recovery Residence operators are housing providers who provide safe, drug and alcohol free, structured environments to a disabled class of individuals. The Fair Housing Act protects the rights of these disabled individuals to reside wherever they choose. Further; the Fair Housing Act suggests that

there is an evidenced-based, therapeutic value to cohabitation. Recovery Residences are not treatment providers and are therefore not subject to licensing by DCF-SA.

b. From ***The Urban Lawyer*** Vol. 42, No. 3 Summer 2010, Pgs.608-609

   i. **II. How Does the FHA Apply to Sober Living Homes?** As amended in 1988, the FHA prohibits housing discrimination on the basis of "handicap," which is defined as: "(1) a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance." Congress enacted the Rehabilitation Act a few years prior to the FHA and clearly included "Individuals who have a record of drug use or addiction" in their definition of "disabled" under the Act. Because Congress incorporated many terms of the Rehabilitation Act into the FHA, courts have included drug and alcohol addiction in their definition of "physical or mental impairment" under the FHA. For example, the Ninth Circuit has held that "[i]t is well established that individuals recovering from drug or alcohol addiction are handicapped under the [FHA] Act."

c. FARR recommends that, if licensing and/or registration is contemplated by the legislature, the Department of Business and Professional Regulations would be the most appropriate authority to license recovery housing providers.

d. We recommend that self-regulating certification authorities such as FARR work closely with both state and local governments to ensure:

   i. That recovery residences restrict their support of residents to "non-treatment activities" including housing, life-skills mentoring, recovery planning and transportation to 12 step and/or faith-based self-help support groups.

   ii. That recovery residences comply with both local and/or state permitting requirements as discussed earlier in this position paper.

   iii. That recovery residence management does, in fact, take the steps necessary to ensure they provide an alcohol and drug free environment for residents

   iv. That grievances against a recovery residence be forwarded to the appropriate local and/or state authority when the scope of the grievance extends beyond the certification entity's purview.

   v. That recovery residence owner/operator and staff are held accountable to the ethics and standards set forth by the certifying entity; including, but not limited to, a comprehensive set of good neighbor standards.

Proposal for controlling the growth and development of Behavioral Healthcare (Substance abuse treatment) in Florida and proliferation of recovery housing.

IN healthcare, many states and communities try to control the amount of services for many reasons. Hospitals and Psychiatric Hospitals are controlled to contain costs of healthcare and insure viability of the existing facilities. If a hospital has too many empty beds, the revenue generated cannot cover the costs of keeping the doors open and communities need all types of healthcare within a reasonable distance for safety and ongoing treatment for many conditions. All healthcare facilities should come under control of the state as far as growth and services for the population.

The parity act has identified all aspects of healthcare as equal. Medical health, mental health and substance abuse. In fact the American Disability Act identifies substance abuse as a disease and people with these problems are suffering a disability and are to be considered a protected class.

I would propose that Behavioral Healthcare be treated the same as any other kind of healthcare.

If a community has enough beds for substance abuse, and of course lower levels of care like Partial Hospital Programs and Intensive outpatient programs, there should be a hearing process and certification process as to the need in any community. This will afford any entrepreneur the option to explore the needs in any community. If the community can show it has enough services, the state should have the right to control the growth. Communities with needs can contact provider agencies and encourage them to provide services where they are needed.

Communities need to have a balance of services whether they are gas stations or hospitals or rehabs.

Uncontrolled growth will diminish property value and put undue burden on community resources. It will also affect the existing facilities having too much vacancy and increase the pricing of services to account for empty beds.

Whether it is a school, hotel hospital or rehab, or even condo developments, it is not good for the economic health of a community to have too many of anything.

One of the models of treatment services that has popped up is “the Florida model “of treatment. This can be a recovery house that decides to get into the treatment business and provide its own IOP services, then creating the illusion of a drug rehab; it can be a provider looking for transient housing to accompany a storefront outpatient service provider, providing IOP, PHP or outpatient services. Present DCF regulations were not designed to deal with this type of service and do not have the staff or the regulations to control this growth and the regulations do not fit the services other than the actual clinical service.

1.

This is everyone's problem and seems to be more so in south Florida. The Insurance companies and managed care industries have pushed treatment providers to look for low cost treatment as they cut back further and further on insurance reimbursement. On the other hand if you are a fully licensed residential treatment program and provide higher levels of credentialed treatment teams, they do work with you and can provide adequate treatment on an in-patient level or at least closer to what is needed.

If you are a rehab that tends to cut corners, you may not be able to document the proper need for treatment. It comes to light that the best programs follow high standards set by DCF and JCAHO for all levels of inpatient care.

In other words if treatment is done right, people can get adequate inpatient treatment. It is true that substance abuse treatment involves a lot of aftercare as does a person with a serious cardiac history, diabetes, and many other chronic conditions.

Partial hospitalization and Intensive Outpatient programs were designed for someone who returns home to a supportive environment and attends during the day while sleeping at home with a supportive family. This is not always the case and recovery houses do play a role in long term aftercare.

Just as Mental Health is managed in other areas of the country, like an inpatient period of stabilization followed by partial Hospital program for many weeks and months sometimes. Substance abuse treatment needs the same. With substance abuse an illness often combined with a mental health diagnosis, require longer term lower level of care treatment. Some need group homes or as they are called halfway houses or recovery homes. The recovery homes need to be monitored and paid for by insurance companies and or state plans but with licensed and monitored living environments and treatment. A typical community living program for mentally ill people have 24 hour on call supervision. Some levels with sleep in on call people. Recovery homes do too, but nothing is monitored or paid for, and the quality of homes varies greatly.

If we truly embrace the parity act, it needs to extend to all levels of care for mental health and substance abuse, both in reimbursement for treatment services and licensing and regulations for housing. These steps of regulation, will limit the growth in specific communities. Right now, it is following the tourism industry; Palm Beach County has a great tourism industry. Recovery homes and these IOP and PHP programs have become Part of the "tourist "trade. You do not see this problem in Pahokee, or Nebraska.

That being said, we have to control the growth. I have recently had emails notifying me of 2 new 60 bed facilities hoping to open in Palm Beach County. The more programs allowed to open the more people with addiction problems come to this county. With a rapid influx of addiction programs, typically, 40-50 % of those people do not want to return home, the patients love the weather and look for a recovery home.

Just like pill mills opening too rapidly and people coming down here from the north east for drugs… now they are coming down for treatment and a place to live. This is just a different version of more people from other countries coming over the borders of south west United States and setting up a living quarters for themselves.

If you look at the numbers of people in the United States having an addiction problem, say it is 10%. And an unusually large number of them coming to south Florida, you calculate how many stay in local recovery houses. Then you take the success rates nationally, anywhere from 25% to 50% relapse,

You now have an unusually large number of people unsuccessful in recovery here in south Florida.

When you look at crime statistics and economic impact of a state, maybe what nationally is 10% of your community struggles with problems, your state may end up with 25% to 30% failure in recovery and multiply your crime rate and your costs for Medicaid and healthcare in your community. Your low income housing will have to rise, your shelters will increase and all will stress the community as taxes collected decrease and local first responder costs skyrocket as well as the state budget for treatment may have to triple falling on the pocketbooks of the other 70% of Floridians working and paying more taxes. It is well documented the costs of treatment and economic losses of addiction.

So while we do not mind having behavioral healthcare and people needing treatment “in our back yard”.

It is more like the concept that our state cannot afford to have all of them in our back yard.

Identifying addiction as both an acute illness and a chronic illness, our way to treat chronic illness has to change. It is much cheaper to house and monitor and support someone with a chronic addiction with supervised help, sober coaching, outpatient treatment, and supportive community living with regulations and monitoring, than it is to pay 300,000 to 500,000 dollars for an overdose. I saw a recent bill from a New Jersey hospital, for an 11 day stay, resulting from an overdose, well over $350,000 dollars. With inpatient stabilization period in substance abuse treatment, 12 months of supportive living, the bill would be less than $50,000 dollars. With 37,000 overdose deaths a year, and I have no idea how many overdoses were treated and lived, the math is huge.

Florida or any state, simply cannot afford a 30 % number or any number above the national average. But if we do not control the growth of the industry that is what you will end up with.

We have 2 agendas;

1. Control the growth of substance abuse treatment from Intensive outpatient to Inpatient treatment.

2. Work with insurance companies and DSM V and the society of addiction medicine to come up with an organized, monitored, regulated long term low cost treatment model for those who have a chronic condition.

We have to identify what constitutes chronic addiction and utilize resources more intelligently for them. Paid supervised regulated recovery homes and make sober coaching a technical position similar to the Therapeutic Staff Support they use in the chronic mental health system.

There are many different positions within the Behavioral Health field; Therapeutic Staff Support (or TSS) is one of them. TSS's provide one on one intervention to help child, teen or adult to assist in behavioral modification. They work either in the home, school (includes day care), or community, wherever the behavior is most prevalent. Some things they provide are crisis intervention, behavior reinforcement (reinforcements for good behavior), emotional support, and time structure. A TSS does not work alone; they work alongside a Behavioral Specialist Clinician (BSC) or a Mobile Therapist (MT).

Some of the TSS duties and responsibilities include modeling treatment interventions established by the MT or BSC as documented in the treatment plan, providing specific interventions in the home, school, or community settings as outlined in the treatment plan, develop progress notes describing each client contact and how that contact relates to treatment goals, and collaborating with other members of the treatment team and other professionals working in the home, or in other community settings, as well as participation in Inter-agency/team meetings when necessary.

We need to develop a task force to put together a system of regulations and a separate one to formulate new ways of offering treatment services for chronic addiction as a secondary solution and work with insurance companies, providers and regulatory departments to do that.

In the mean time we need to put a moratorium on growth of substance abuse programs in the state to give us time to organize a certificate of need system of growth.

City of Delray Beach's Response to Questions Posed by DCF regarding Regulation of Recovery/Sober Houses

1. Should recovery residences be regulated?

Yes, they are acting as quasi-medical facilities in many instances. At a minimum, they should be required to register with the state and the operators should be required to have background checks. Further, under the NFPA (National Fire Protection Act), Life Safety Code, Florida, the state of Florida recognizes that certain fire safety precautions should be required for certain types of facilities including residences that provide "personal care services". "Personal care" is defined to include: "responsibility for the safety of the resident while inside the building. Personal care might include daily awareness by management of the resident's functioning and whereabouts, making and reminding a resident of appointments, the ability and readiness for intervention in the event of a resident experiencing a crisis, supervision in the areas of nutrition and medication, and actual provision of transient medical care." *See*, A.3.3.192, NFPA 101, Life Safety Code, Florida 2010 Edition.

It is common knowledge that all "Sober Houses" (at least those that attempt to provide the living environment they advertise) establish rules to enforce their fundamental tenet that residents are coming to a sober living environment. It is, at a minimum, curfews, attending Alcoholics Anonymous or Narcotics Anonymous meetings, rules related to who can be in the house and when, and the whereabouts of a resident if he/she is unheard from for several days and subsequently returns. In other words, there are rules a resident has to abide by and agree to if they want to remain at the facility. We know that "Sober Houses" affiliated with larger licensed treatment facilities (appropriately) test the residents to ensure compliance. We believe that the ever growing number of unlicensed facilities are doing the same. It's hard to imagine a scenario where a legitimate "Sober House", licensed or unlicensed, would not conduct drug or alcohol tests.

By having a manager or landlord setting curfews for residents, assisting with the availability of treatment at other facilities, supervising medications or conducting drug tests they easily fit the definition as a "personal care service". Therefore, it seems logical that if certain fire safety standards are required for these types of residences that the residences themselves should be registered/regulated to ensure that each residence meets these minimum life safety standards.

We applaud any and all efforts to assist individuals recovering from substance abuse. Its toll on our society, families and those afflicted is immeasurable. Many residents are

responding to advertisements with promises of outcomes and a calm environment to recover. We have seen far too many of these residen***ts evicted at all hours,*** subjected to abusive behavior and worse. Exactly the kind of behavior that would not happen (for long) at a licensed facility.

We agree that the State of Florida cannot regulate a relationship between individuals who have a common interest in being sober and therefore agreeing to live together and sharing rent. We also agree that people cannot and should not be discriminated against for doing so. This type of arrangement, however, is not what the vast majority of "Sober Houses" are in Delray Beach. They are small businesses that set rates, make profits, often collect insurance premiums, receive referrals from other facilities (such as detoxification centers) and in doing so, hopefully, provide a service. They are growing at such a rate because it is widely known that virtually any person, including unscrupulous ones, can open a "sober house" and enjoy protections that are not afforded to other recovery and health care entities. While we agree that we cannot legislate to the lowest common denominator in this area we also cannot turn a blind eye to such an obvious abuse of the system. We believe that we need a common sense definition in the Florida Statutes to distinguish between the two scenarios mentioned above and a licensing mechanism in place in order to ensure that minimum standards of safety and living environment are met.

2. If yes, how should recovery residences be regulated?

They should be required to obtain a license/registration from Department of Children and Families, show compliance with life safety standards for the residences and have background check requirements for the operators much like "Day or Night Treatment with Community Housing" is required to do pursuant to ch. 397, *Fla. Stat.* and ch. 65, F.A.C. Penalties should also be in place for those that do not comply.

3. How many recovery residences operate in Florida? What is your methodology for arriving at this number?

We have no idea and cannot begin to estimate this number as there currently are no licensing or registration requirements; therefore, there is no way for anyone to know with any certainty.

4. What would be the feasibility, cost, and consequences of licensing, regulating, registering, or certifying recovery residences and their operators?

The cost of the license/registration fee should cover the cost of licensing/registering by DCF. Further, we believe that the cost of not licensing/registering recovery residences

(sober houses) is much greater than the costs of licensing/registering them. The lack of state oversight and regulation has made sober house tenants the target of unscrupulous landlords who prey on tenants/residents by "flipping" the same bed, insisting on several months' rent up front, and then evicting someone for rules violations, and re-renting the same room/bed. Some owners put "rule-breakers" out on the curb, with no alternative housing, which often leads to an increase in homelessness and crime. Even worse is that there have been situations where the operator is a newly recovered individual who begins using drugs/alcohol again and the whole house ends up in disarray. Further, some operators have criminal backgrounds as sexual offenders, etc. In Delray Beach, we had a problem with women being sexually assaulted by the operator of the house that is supposed to be a safe haven. We also have a sober house attached, owned, and operated by the same owner as the adjacent Bar. With some regulation/standards, this would likely not occur.

Finally, in Delray Beach we have had people die in sober houses due to lack of state oversight or regulation. With some standard of care or at least some accountability of the operators through licensing/registration, we believe that this could be avoided. Life is invaluable and even one death is one too many. How much would you pay to save a life?

5. If there were to be a regulating body, what is the appropriate level of government for it to operate?

State registration and/or licensing is appropriate and was clearly contemplated by the Department of Justice and the Department of Housing and Urban Development when they issued their joint statement in August, 1999, which stated, "The great majority of group homes for persons with disabilities (this includes sober houses) are subject to state regulations intended to protect the health and safety of their residents. The Department of Justice and HUD believe, as do responsible group home operators, that such licensing schemes are necessary and legitimate. Neighbors who have concerns that a particular group home is being operated inappropriately should be able to bring their concerns to the attention of the responsible licensing agency. We encourage the states to commit the resources needed to make these systems responsive to resident and community needs and concerns." *See*, Joint Statement of the Department of Justice and the Department of Housing and Urban Development, Group Homes, Local Land Use, and the Fair Housing Act at 4 (August 18, 1999).

Additionally, if cities and counties regulate/register sober houses on their own, this will likely result in inconsistencies between cities/counties as well as a movement of

operators to those cities/counties that have no regulation/registration. This will not solve problems or save lives, it will merely push the problem around.

6. What should be included in any regulatory framework for a recovery residence?

State registration/licensure of homes, including life-safety evaluations of homes, background checks of operators, and penalties for failure to register/obtain a license.

7. Are there any other issues that need to be addressed?

Yes. There seems to be a lot of insurance fraud occurring within these homes whereby they are charging obscene amounts of money for simple procedures such as urine tests. This is simply another way that the operators abuse their tenants/patients and use this vulnerable population to maximize profits. Also, to help integrate the patients/tenants into residential neighborhoods, clustering should be avoided.

Response to DCF Questions Regarding Possible Regulation of Sober Homes

The Pinellas County Homeless Leadership Board, Inc. (HLB) is the organization that coordinates and sets policies for homeless services in Pinellas County. It was created by an Interlocal Agreement signed by: Pinellas County, the Cities of Clearwater, Largo, Pinellas Park, St. Petersburg and Tarpon Springs; the School Board of Pinellas County; and the Public Defender. The HLB reviewed the questions asked by DCF regarding possible regulation of Sober Homes at a recent meeting that included elected officials from all the Interlocal Agreement signatories, community members, providers of rehabilitative services, other homeless providers, and the general public. The answers to the DCF questions from the meeting are provided below. In general, the HLB is on record as supporting the positions of the Florida Alcohol and Drug Abuse Association and the Florida League of Cities on the issue of regulation of 'sober homes.'

How many recovery residences operate in Florida or in this county?
This question is impossible to answer as the number of 'recovery residences' or 'sober homes' could vary by the day or week even if they can be found. We have operators here who open and advertise new 'sober homes' almost monthly, often leasing or renting a house with three-four bedrooms and housing at least three-four people in every room until the rent comes due or some other problem happens. Every part of the county has 'sober homes' and they are usually in residential areas. As a local law enforcement officer said, "I know just about every officer has run into a situation where a 'halfway house' is operating without a license and there is little that can be done to protect the people that reside inside the house and the negative impact these have on the surrounding community."

What is the feasibility, cost and consequences of licensing, regulating, registering or certifying recovery residences and their operators?
Good 'sober homes' have a distinct and needed role on the recovery of persons from addiction, especially if is combined with mental health problems. Bad or inadequate 'sober homes' can and usually do reinforce undesirable activities, leading to re-addiction. We believe FADAA is an excellent resource on this topic as they know what activities should be part of the services offered in such a housing situation.

- *Feasibility*: it is feasible to license and regulate 'sober homes' in a manner similar to how ALFs are supposed to be licensed and regulated if there were enough inspectors to monitor them, and if the consequences of non-licensure or bad performance were actually enforced. Florida legislators must review this process nationally and choose to embed the best practices through the regulatory process. Those applying for licenses should have to prove they can and will do what they say they do before the license is granted, and the license renewal would have to be based on performance. Care must be taken to distinguish between legitimate rehabilitation outpatient facilities and 'sober homes.'

- *Cost:* the cost of the licensure and required inspections throughout the state would be developed based on what the regulations required, and should be covered by DCF or the oversight organization through legislation. Cost factors of similar regulatory processes should be evaluated, both in Florida and where they are in place in other parts of the country. We are not able to make any statements on the costs of such a program of regulation and inspection.

- *Consequences*: intended and unintended consequences must be considered in the development of any regulatory process. The consequences of a good regulatory process could be of great benefit to the consumers who need this type of housing, and to the community in which the housing is located. It can assist law enforcement officers with understanding the services that these facilities offer, and provides officers with resources that are appropriate and respected facilities. Oversight by the governing licensing agency assists officers by having someone to contact when the facility has a negative or positive impact on the community. The negative consequences could be overregulation that would make it impossible for good organizations/ operators to run 'sober homes.' One consequence of non-regulation we have already had to work with is the increase in people who become homeless and on the street because they have had all their money taken by unscrupulous operators with no services.

Should recovery residences be regulated?

The answer is a qualified 'yes.' They should be regulated as long as:

- substance and alcohol abuse experts have a major role in writing the regulations to be sure they address the recovery aspects and needed services of the 'sober homes;'
- the regulations clearly define what constitutes satisfactory/good/adequate and illegal 'sober homes;'
- the regulations are enforced consistently and effectively across all jurisdictions in the state;
- there are designated monitoring/accountability organizations that will provide the oversight necessary;
- there are real consequences (including financial) to operating a 'sober home' with no license, or none of the services promised, or no positive outcomes for the people that live in the houses;
- the regulations do not limit where the 'sober living' homes can be physically located to the extent that they are forced to go to undesirable or unsafe locations that will harm the house residents even more (or make it impossible for good 'sober homes' to be located in good residential areas);
- the regulations are balanced enough to allow the good 'sober home ' operators to function and do their job but strict enough to put the others out of business (if the good ones go away that leaves the prospective consumers with no options but the fly-by-night or illegal houses);
- attention is paid to unintended consequences that could make the situation worse than it is now, such as increasing the number of homeless persons on the street with ongoing substance abuse or mental health problems.

If there was a regulating body, what is the appropriate level of government?

If we are to have regulations for the 'sober houses' then they should be uniform and consistent across the State of Florida to be the most effective. Pinellas County alone has 24 cities, and it would be almost impossible to have the same set of regulations across all of them with the same protection for both homeowners/ neighborhoods and the persons living in the 'sober homes.' Consistency is also critical; any regulations should be strong enough to weed out those operators who ignore them or seek only to make money without offering any services, but not so onerous that they stop legitimate operators from providing valuable and needed sober housing. To be really effective there must be sufficient staff from the state level (or contracted to the local level) to monitor the 'sober homes' to ensure they adhere to the regulations. If the only choices are regulations with no teeth or an unfunded mandate from the State to the local areas to monitor and enforce State regulations, either choice would be worse than no regulations at all.

What should be included in any regulatory framework for a recovery residence?

- We refer to the expertise of FADAA and organizations that know this field. At a minimum the regulations should outline the expected services and levels of service of any kind that will assist the residents to remain sober.
- The homes should be required to abide by any applicable State and Federal guidelines (depending upon funding sources) and audits by the corresponding agencies.
- Any staff (if they exist) should be free of alcohol or substance abuse but former addicts should not be prohibited from being there as they are often excellent workers in such a facility.
- Past history of the operators should prohibit those who have violated regulations or operated illegal homes from being licensed to operate new ones. (We have experience with a number of operators of such 'sober homes' in Pinellas who offer poor or no services and take any resident's earnings/force them to work. They lose one home and simply open a new one in a matter of days, often convincing the residents to move with them.)
- Violation of the regulations should result in the loss of current and future licenses.
- The regulations should not make it so expensive to make a 'sober home' up to standards that legitimate operators will not be able to meet them. They also should make it possible to operate small 'sober homes' in residential areas.

CITY OF PORT ST. LUCIE'S RESPONSE TO SOBER HOUSE PLAN DEVELOPMENT QUESTIONS POSED BY DCF

1. **Should recovery residences be regulated?**

   A: Recovery residences should be regulated for the benefit of the residents served by the facility and for the protection of the neighborhood in which they are located. In addition, there are minimum life safety standards which fall under the building department's jurisdiction in ensuring compliance with the National Fire Protection Act which should apply to these facilities. Sober House facilities provide "personal care services", which include responsibility for the safety of the residents while inside the building. Under this scenario, fire safety standards are required and should apply to sober house facilities.

2. **If yes, how should recovery residences be regulated?**

   A: Recovery residences should be regulated by the Department of Children and Families similar to other state licensed facilities under Chapter 397 Substance Abuse Providers and/or components of Chapter 419 Community Residential Homes and/or Chapter 429, of the Florida Statutes for Living Facilities, Adult Family-Care Homes and Adult Day Care Centers.

3. **How many recovery residences operate in Florida? What is your methodology for arriving at that number?**

   A: As a local government, we have no way of knowing how many recovery residences are operating in the State of Florida. Recovery Residences are not required to be licensed facilities and if they do not apply for a reasonable accommodation from the local jurisdiction there is no way to maintain a list of facilities operating in a particular jurisdiction.
   In the City of Port St. Lucie, we have processed one application for a reasonable accommodation. One request for a reasonable accommodation on three adjacent vacant single family lots has been granted to the applicant. There are approximately one hundred fifty-five licensed assisted

living facilities and/or group homes that are registered with the City of Port St. Lucie.

4. **What would be the feasibility, cost and consequence of licensing, regulating, registering, or certifying recovery residences and their operators?**

A: It is feasible to license, regulate, register and/or certify recovery residences and their operators as other facilities are licensed and regulated. The license and regulation would be in place for the protection of the residents in recovery at the various facilities so that they can be integrated back into the communities. Regulation and certification of the operators would ensure that the operators of the facilities have the adequate training and experience to provide the services which are needed to assist in the recovery process. Without the regulation and/or certification of these facilities, some of them will be nothing more than a boarding house facility. Legitimate operators should want the regulation to avoid against fraudulent operators seeking the protections of the American with Disabilities Act and the Fair Housing Act when in essence they are only seeking profits in difficult economic times. This is a detriment to legitimate disabled individuals and legitimate operators seeking to help alleviate the ills of addiction in our society.

The consequence of licensing should be that the boarding home operators will cease doing business in local jurisdictions. Legitimate operators should be allowed to register with the local governments and have a point of contact for the local law enforcement to contact in case of emergencies which may arise at the registered locations. For the residents in treatment, they will know that they are receiving treatment from a facility that has gone through a background check with the state to ensure their safety and their well being while in treatment. Registration and certification would also ensure compliance with local laws regarding registration of any child predators, which would alleviate a concern for local neighborhood residents.

5. **If there were to be a regulating body, what is the appropriate level of government for it to operate?**

   A: The Department of Children and Family Services is an appropriate agency to regulate and operate the licensure of recovery residences in the State of Florida. There are processes and procedures in place for the regulation of other similar uses of homes in residential neighborhoods and similar types of services being provided in the home setting environment. The fees for licensure and registrations could also be similar to fees currently being charged to residential homes. On the local government level, we would like to receive copies of the state license with the proper entity name, address and telephone number. For the residence in the surrounding neighborhoods, the background check of the operators would be important to know the quality of the operators involved.

6. **What should be included in any regulatory framework for a recovery residence?**

   A: In any regulatory framework for recovery residences, background information on the operator of the facility should be included. A plan of operation for the house along with rules and guidelines should be included. Many of the operators use the "Oxford Model" name as an example of the way they intend to operate the facility. If that model is being used, it should be in detail for the operation of the facility. If there is a relapse and an individual is no longer "disabled", there should be provisions for what happens in that scenario.

7. **Are here any other issues that need to be addressed?**

   A: In an effort to address the integration back into society component of treatment, there needs to be consideration given to clustering and/or a distance separation of the recovery residence facilities in any given community. There needs to be a process in place for illegitimate operators not to continue to operate to the detriment of those in need of treatment.