

Executive Summary of a Report on Sober Homes
prepared for the Vermont Legislature
Susan E. Mehrtens, Ph.D.

The rise and spread of addiction in the United States in the last 40 years has led to a variety of responses to foster recovery. One response has been the “sober house,” a residence for recovering substance abusers seeking a wholesome environment supportive of sobriety. The sober home has become a nation-wide phenomenon, and there are now dozens of sober houses in Vermont. A partial list of these is in Appendix B of this report.

The success of the sober house concept in supporting recovery has been proven scientifically, but in recent years, as addiction has become more widespread and the need for sober homes has grown, abuses have arisen in the system. Unscrupulous “profiteers” are creating “entrepreneurial” sober homes to make money by exploiting the needs of the handicapped, and the result is a host of problems.

In response to citizens’ complaints about these problems, various local and state governments all over the country have responded by passing laws addressing zoning, public safety, building codes, traffic and parking, health, definitions of “family,” and other aspects of group living. But none of these efforts have eliminated the problems, due to the unique nature of the sober house: its immunity from local and state regulation.

The 1988 Amendment to the Fair Housing Act (FHAA) barred discrimination against the handicapped, and recovering alcoholics and drug addicts are included in the definition of “handicapped.” Federal law trumps local and state law. As applied by numerous federal courts, from the district level to the U.S. Supreme Court, the FHAA exempts sober homes even from legislation purporting to protect the residents of sober homes. Federal judges call such laws “paternalistic.”

For a legislative body—be it a city, town or state—to venture into the regulation of sober homes is to enter perilous territory. While the Vermont Legislature would do well to avoid trying to regulate sober homes, it can:

- remain aware of the sober house phenomenon and recognize the difference between the well-run sober homes and those run by profiteers out to make money
- monitor the increasing problems associated with the “entrepreneurial” type of sober home, with help in this regard from residents living in the vicinity of these homes
- encourage diligent monitoring of those aspects of sober home activity where fraud has turned up in other jurisdictions, e.g. the Medicaid fraud discovered in Massachusetts. Sober homes are immune from local and state regulations but their proprietors certainly are not immune from criminal prosecution.
- solicit advice from experts and government administrators in other jurisdictions, like Massachusetts, on how to identify fraudulent schemes and other crimes that have been associated with sober homes. Toward this end, Appendix A provides a list of persons who can provide relevant information.
- work with the appropriate administrators of Vermont government agencies to develop plans or programs that the state will be able to implement when Congress takes action to remedy the abuses in the sober house system.

Vermont has a well-deserved reputation as a progressive pioneer in social and political issues, and our Legislature can continue this tradition as we grapple locally and nationally with the sober home situation.