



OFFICE OF THE STATE ATTOR. NEEDLEEY

FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY



**DAVID ARONBERG
STATE ATTOR. NEEDLEEY**

Sober Home Task Force (Proviso) Meeting Minutes

Sober Homes Task Force Tip Line [1-844-324-5463](tel:1-844-324-5463)

**Meeting Location: WPB Police Community Room
600 Banyan Blvd, West Palm Beach, FL 33401**

Meeting Date: September 13, 2016

Al Johnson opened the second Proviso Group meeting at 2:00 pm

Welcome/Introductions

Proviso Group

Valerie Allen-present
Thomas Baird-present
Dr. Karen Dodge -absent
Mark Fontaine -represented
Julie Hogan-present
John Lehman-present
Jeffrey Lynne-absent

Neal McGarry-present
Commissioner Shanon Materio-present
Dr. Rachel Needle-present
Captain Houston Park-present
Terrill Pyburn – present
Dr. Needle-present
Michael Weiner-present

Jill Gran represented Mark Fontaine
Sarah Liccardy-presenter-DCF

The State Attorney's Office

Dave Aronberg
Justin Chapman
Bill Ferris
Al Johnson
Ted Padich
AnnMarie Spohnholtz
Kari Williams

All attendees informed by Mr. Johnson that meeting minutes are being taken and the meetings are audio-recorded. Public attendees made their introductions as well

“Sunshine Law” Overview:

Mr. Johnson highlighted the importance of the Sunshine Law and its implications for this Task Force. As an example, he cautioned the group not to use “reply all” in the use of email, regarding what is coming or will be coming before the Task Force.

Dave Aronberg thanked everyone for his or her involvement, restating the urgency on this issue.

Statistics update:

Opioid overdoses through August 31, 2016.

Statistics are documented by Fire Rescue: Opioid overdoses include Fentanyl, Oxycodone, Heroin

Palm Beach-50 Opioid overdoses

Boynton Beach-256 Opioid overdoses (25 from 8/18-8/31)

Boca Raton-50 Opioid overdoses

PBC Fire Rescue-1501 Opioid overdoses

Total documented Opioid overdoses-1812

Delray Beach 360 Opioid overdoses (52 in August alone)

Medical Examiner Deaths Opioid deaths include Fentanyl, Oxycodone, Heroin

234 Deaths reported through July

Delray Beach 31 Deaths

The State Attorney's Office has received dozens of calls and emails with some confusion of legalities of Florida Patient Brokering Statutes and practices within the industry.

Mr. Johnson's response to clarify: any commission, any bonus, rebate, any kick back, or bribe in cash or in kind given in return for the acceptance or acknowledgement of treatment or in return for referring patients or patronage to or from a provider is illegal. Any commission, any bonus, rebate, kick back, or bribe in cash or in kind given to induce the referral of a patient or a patient going into a particular provider's care is illegal and can be prosecuted.

Patient inducements include:

1. Cigarettes
2. Gift cards
3. Xbox
4. Gym memberships
5. Clothes
6. Rent or rent subsidies
7. Free plane tickets, to name a few, are illegal
8. Cash or other form of compensation to sober homes, brokers, marketers, or patients, either offered or accepted, in return for the referral of patients to a treatment facility or recovery residence, is illegal.
9. Aiding, abiding or advising in this prohibited conduct is prohibited.
10. Conspiring to broker by using or contributing to a 3rd party nonprofit, who then provides benefits to patients from a particular provider through a nonprofit, is illegal.
11. Sober home operators brokering residents to a specific provider under the guise of providing services to that provider is illegal.

Licensing and Certification of Recovery Residences

Mr. Johnson lead the discussion by recognizing that there has to be a residential component for treatment, if rent is involved, then there has to be licensing and certification of those types of recovery residences.

Jill Gran emphasized that it is very important to be very careful on how commerce is defined. Using the language if one or more individuals is actively seeking treatment defines commercial recovery residence, vs. an individual that is simply renting a room.

Mr. Johnson further clarifies definition of recovery residences in a different category because there cannot be a commercial recovery residence without being a recovery residence first.

Ms. Pyburn made the distinction that we are not trying to impose licensure for Oxford House Model.

Mr. Johnson adds the one extra ingredient is the quid pro quo for market rent in exchange for more scrutiny and more oversight on house. Certified Recovery Residence (CRR) not only means that there is a resident in treatment and there is an economic benefit that flows to that resident from a particular provider.

Mr. Lehman suggested defining language “A commercial recovery residence is defined as a NARR support level 3 recovery residence that under contract with a licensed behavior healthcare provider provisions housing for clients of an outpatient behavioral healthcare program. Such agreements must be reviewed and approved by the credentialing entity in advance of issuance of a certificate of compliance and said agreements must detail to the satisfaction of the credentialing entity provider of transitional policies and procedures for preparing clients to move forward towards self-directed recovery.”

Dr. Needle interjected that there is a need to redefine what active treatment is and what it includes. We are really talking about IOP and if we are trying to protect the clients, for transparency, they have to say who they are connected with.

Mr. Johnson referred back to definitions, there are two definitions of recovery residence: active treatment or in treatment.

Commissioner Materio discussed how the municipalities deal with this and reviewed possible necessary qualifications needed for those individuals not in treatment to be safe. How does a level III fit into a community?

Mr. Johnson stated that the reason why we are carving out this model, and the need for licensing and certification, is what we are dealing with now is an out of control economic model.

Mr. Lehman went into detail as to why this epidemic has recently occurred, citing the explosion of “medical tourism.” The contract Mr. Lehman is referring to defines a concrete set of barriers where the individual can get a job, learn life skills, and act like a citizen in society.

Brief discussion followed as to AHCA vs DCF as regulatory agency.

Mr. Lehman further clarified that corporate DCF does not view housing associated with Out Patient as falling under their umbrella. Community Day/Night with housing, DCF is not looking to continue with this platform, and residential IV and V are on their way out.

Ms. Allen followed up on her presentation from last month. The hand out Ms. Allen provided is as follows:

The Following Reports/Statistics have been requested:

Information Requested	Response	Page #
1. Number of currently licensed facilities/programs in PBC, Broward County, and state-wide under each category of treatment.	1 (a): Number of Providers By Region/Statewide	2
	1 (b): Number of Providers for Treasure Coast, Palm Beach and Broward	2
	1 (c): Licensed Components By Region/Statewide	3
	1 (d): Licensed Components for Treasure Coast, Palm Beach and Broward	4
2. Number of licenses suspended or revoked within the last 10 years	2 (a): Number of Licenses Revoked by FY 09/10 - FY 16/17	5
	2 (b): Number of Licenses Revoked by Region	5
3. Number of licenses not renewed within the last 10 years	Current Data system does not capture requested information	N/A
4. Number of licenses voluntarily surrendered within the last 10 years	4 (a): Number of Licenses voluntarily surrendered by FY 09/10 - FY 16/17	6
	4 (b): Number of Licenses voluntarily surrendered by Region	6
5. Of those licenses voluntarily surrendered, Number of providers who have re-applied for licensure.	Current Data system does not capture requested information	N/A
6. DCF staff dedicated specifically to licensing and oversight of currently active drug treatment providers in PBC, Broward, and state-wide. Include staff dedicated to licensure, and staff dedicated to investigation.	6 (a): DCF staff dedicated specifically to licensing and oversight of currently active drug treatment providers by Region.	7
	6 (b): DCF staff dedicated specifically to licensing and oversight of currently active drug treatment providers for PBC and Broward	7
7. Number of complaints received in the last 10 years (if possible, breakdown per year). Type of complaints investigated by DCF. Type of complaints not investigated (e.g., referred to another agency)	7 (a) – Statewide Number of complaints received in the last 10 years by FY 10/11 - FY 16/17	8
	7 (b) - Type of complaints investigated by DCF	8
	7 (c) - Type of complaints not investigated (e.g., referred to another agency)	8

Response: 1 (a)

Number of Providers by Region as of 8/31/2016*

REGION	
Northwest	50
Northeast	108
Central	138
SunCoast	150
Southern	115
Southeast	370
TOTAL	931

Response: 1 (b)

Number of Providers for Treasure Coast, Palm Beach and Broward as of 8/31/2016*

COUNTY	
Palm Beach	206
Broward	115
Treasure Coast	49
TOTAL	321

Response: 1 (c)**Number of Licenses per Component by Region as of August 31, 2016***

SERVICE COMPONENT	NORTHWEST REGION	NORTHEAST REGION	CENTRAL REGION	SUNCOAST REGION	SOUTHERN REGION	SOUTHEAST REGION	TOTAL
Addictions Receiving Facility	1	2	5	6	4	2	20
Aftercare	24	41	49	30	19	46	209
Day or Night Treatment	5	11	21	18	26	156	237
Day or Night Treatment with Community Housing	1	6	3	7	8	128	153
Intensive Inpatient Treatment	0	2	4	1	1	21	29
Intensive Outpatient Treatment	22	35	53	42	45	305	502
Intervention - Case Management	5	21	28	23	29	12	118
Intervention - EAP	0	0	0	2	9	0	11
Intervention - General	21	49	51	33	28	23	205
Intervention - TASC	4	2	10	1	7	2	26
Level 1 Prevention	32	65	42	45	30	34	248
Level 2 Prevention	13	32	12	23	18	11	109
Medication And Methadone Maintenance Treatment	6	7	11	12	3	7	46
Outpatient Detoxification	2	5	3	3	10	50	73
Outpatient Methadone Detoxification	4	0	3	5	0	0	12
Outpatient Treatment	56	118	166	164	151	354	1009
Residential - Level 1	2	8	8	13	0	35	66
Residential - Level 2	23	20	29	22	17	23	134
Residential - Level 3	1	0	8	3	2	6	20
Residential - Level 4	2	4	7	7	7	7	34

Residential - Level 5	4	3	0	8	3	42	60
Residential Detoxification	7	9	11	14	8	40	89
Residential Methadone Detoxification	0	0	0	0	0	3	3
Satellite Maintenance - Medication And Methadone Maintenance Treatment	0	1	0	3	0	0	4
*Source: SALIS							

Response: 1 (d)

Number of Licenses per Component for Treasure Coast, Palm Beach and Broward as of August 31, 2016*

SERVICE COMPONENT	PALM BEACH COUNTY	BROWARD COUNTY	TREASURE COAST
Addictions Receiving Facility	0	1	1
Aftercare	12	22	12
Day or Night Treatment	105	36	14
Day or Night Treatment with Community Housing	69	40	19
Intensive Inpatient Treatment	14	3	4
Intensive Outpatient Treatment	181	77	47
Intervention - Case Management	5	6	1
Intervention - EAP	0	0	0
Intervention - General	7	7	9
Intervention - TASC	1	1	1
Level 1 Prevention	9	11	14
Level 2 Prevention	3	3	5
Medication And Methadone Maintenance Treatment	3	3	1
Outpatient Detoxification	26	13	11
Outpatient Methadone Detoxification	0	0	3
Outpatient Treatment	178	103	70
Residential - Level 1	25	5	5
Residential - Level 2	7	12	4
Residential - Level 3	3	3	0
Residential - Level 4	3	1	3
Residential - Level 5	25	14	3
Residential Detoxification	25	9	6
Residential Methadone Detoxification	2	1	0
Satellite Maintenance - Medication And Methadone Maintenance Treatment	0	0	0
*Source: SALIS			

Response: 2 (a)

Licenses Revoked by FY 09/10 - FY 16/17

License Revoked	
<i>FY 09-10</i>	6
<i>FY 10-11</i>	5
<i>FY 11-12</i>	0
<i>FY 12-13</i>	0
<i>FY 13-14</i>	6
<i>FY 14-15</i>	0
<i>FY 15-16</i>	0
<i>FY 16-17</i>	1
TOTAL	18

*Source: SALIS

Response: 2 (b)

of Licenses Revoked by Region

REGION	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Northwest (Circuits 1, 2, 14)	0	0	0	0	0	0	0	0
Northeast (Circuits 3, 4, 7, 8)	4	0	0	0	2	0	0	1
Central (Circuits 5, 9, 10, 18)	2	5	0	0	0	0	0	0
SunCoast (Circuits 6,12, 13, 20)	0	0	0	0	4	0	0	0
Southeast (Circuits 15, 17, 19)	0	0	0	0	0	0	0	0
Southern (Circuits 11, 16)	0	0	0	0	0	0	0	0
SUBTOTALS	6	5	0	0	6	0	0	1
TOTAL	18							

*Source: SALIS

Response: 3- N/A

**Number of licenses not renewed within the last 10 years-
requested information**

Current Data system does not capture

Response: 4 (a)**Number of Licenses Voluntarily Surrendered by FY 10/11 - FY 16/17****License Voluntarily Surrendered****

<i>FY 10-11</i>	48
<i>FY 11-12</i>	50
<i>FY 12-13</i>	78
<i>FY 13-14</i>	91
<i>FY 14-15</i>	154
<i>FY 15-16</i>	147
<i>FY 16-17</i>	16
TOTAL	584

*Source: SALIS

Response: 4 (b)**Number of Licenses Voluntarily Surrendered by Region**

REGION	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Northwest (Circuits 1, 2, 14)	6	6	13	18	35	24	0
Northeast (Circuits 3, 4, 7, 8)	7	25	21	38	53	63	5
Central (Circuits 5, 9, 10, 18)	4	1	5	2	7	2	0
SunCoast (Circuits 6, 12, 13, 20)	4	6	28	27	46	38	6
Southeast (Circuits 15, 17, 19)	27	10	10	6	13	9	5
Southern (Circuits 11, 16)	0	2	1	0	0	11	0
Total	48	50	78	91	154	147	16

*Source: SALIS

Response: 5- N/A

Of those licenses voluntarily surrendered, # of providers who have re-applied for licensure. Database does not capture this data

Response: 6 (a)

DCF staff dedicated specifically to licensing and oversight of currently active drug treatment providers by Region.

Office of Substance Abuse and Mental Health Licensing staff. All Licensing staff are involved in licensing and related activities, as well as involved in conducting and reporting on licensure inspections.

	CENTRAL						TOTAL
	NORTHWEST REGION	NORTHEAST REGION	L REGION	SUNCOAST REGION	SOUTHERN REGION	SOUTHEAST REGION	
Licensing Staff	3	4	4	3	2	9	25

****No Specific Staff identified for Investigations*

Response: 6 (b)

DCF staff dedicated specifically to licensing and oversight of currently active drug treatment providers for PBC and Broward

Nine (9) Licensing Staff Identified in Palm Beach and Broward are involved in licensing and related activities, as well as involved in conducting and reporting on licensure inspections.

Southeast Region	
(Palm Beach County, Broward County, Indian River, Martin, Okeechobee & St. Lucie Counties)	
Valerie Allen	SAMH Regional Program Director
Sarah Liccardi	Substance Abuse Coordinator
Shayla Brown	Lead Licensing Specialist
Christine Baretto	Licensing Support Specialist
Pearl Guerin	Administrative Support
Palm Beach Office	
Alexandra Cadet	Substance Abuse Licensing Specialist
Carol Edlund	Substance Abuse Licensing Specialist
Max Elhamad	Substance Abuse Licensing Specialist
Douglas Soave	Substance Abuse Licensing Specialist
Midlyne Vallon	Substance Abuse Licensing Specialist
Dominic Sasso	Substance Abuse Licensing Specialist
Broward Office	
Kelly Lee	Substance Abuse Licensing Specialist
Maritza Lopez	Substance Abuse Licensing Specialist

Response: 7 (a)

Statewide Number of complaints received in the last 10 years by FY 10/11 - FY 16/17

FY 10-11	60
FY 11-12	34
FY 12-13	22
FY 13-14	15
FY 14-15	21
FY 15-16	22
TOTAL	174

*Source: SALIS

Response: 7 (b)

Type of complaints investigated by DCF

- Dissatisfaction with Treatment
- Dissatisfaction with Treatment Cost
- Non-Compliant with Licensure Standards
- Client Rights Violations
 - Food
 - Sanitation, Health and Safety
 - Sexual Abuse
 - Verbal / Emotional Abuse
 - Physical Abuse
 - Inappropriate Behavior Between Clients
- Misrepresentation Regarding Service Provided

Response: 7 (c)

Type of complaints not investigated (e.g., referred to another agency)

Each complaint that is received is reviewed to determine issues related to 65D-30 F.A.C. substance licensing standards. In the event that there are issues unrelated to 65D-30 F.A.C. substance licensing standards, they are advised to contact the appropriate agency to address the identified concern.

Minutes Continued:

Discussion ensued regarding the information distributed and the number of providers listed, licensure auditing, license revocation, and the tools used for license upkeep, or perhaps the need for changing the licensing tools.

Mr. Johnson continued the conversation by referring back to code enforcement tools, and indicating that for the task force to be able to attack the issue we have to have something to attach to and that is this economic model. Mr. Johnson further addressed the homeless issue that will be occurring and municipalities and the county need to be prepared for once the bad actors are shut down. With the shut downs, there will be no place for these people to live.

Discussion continued regarding treatment providers and the treatment industry not doing what they are doing. As the shut downs occur and the industry is connecting together, the betterment of the patient would be looked at as opposed to individuals dying. The predators and opportunists would start to be eliminated. Issues of false advertising were raised, when in actuality, the sober home is not a treatment provider, but merely a “drug den.” Continued issues were raised regarding placement of relapsed individuals, eviction notifications and Marchman Act individuals.

Mr. Lehman addressed this issue indicating that statute 397.487 already has built into it protocol for handling involuntary discharge. FARR has constructed a recommended discharge policy for reoccurrence of use. It is recommended that this issue could be addressed at intake where the recovery residence and the resident execute an agreement regarding the occurrence of relapse and the subsequent action. If this occurs, the residence will call police or fire initiating the Baker Act, where the individual can regroup and think about what direction they want to go (recommit to recovery).

Three steps made available to recovery residences for protocol regarding the certification process:

1. Protects the safety of the consumer
2. Protecting the integrity of the peer community
3. Protecting the broader community

In order to obtain certification, the residence needs to have these steps in place or show protocol for relapse and involuntary discharge. Addressing the concerns raised if the Baker Act is the best resolution for relapse, Mr. Lehman stated that not every resident has to be under The Baker Act. An ethical provider is able to resolve these issues without going through this.

At 3:50 a 10-minute break was taken and the meeting was called back to order at 4:00pm

Patient Brokering

Mr. Johnson elaborated on the amending of the brokering statute involving fair market rate rent, board, competition between recovery residences, and local transportation.

Mr. Lehman talked about the importance of having a contract between the two parties (the recovery residence and treatment provider). However, Mr. Johnson discussed the potential problem of the patient needing the ability to get out of the contract, as it is not a traditional contract involving goods and services. Mr. Lehman responded by saying that the patient that wants to live and eat for free needs to live at the contracted location otherwise services are not paid.

A lively discussion generated on the topic of what needs to happen after a patient's insurance benefits run out and before the person is out on the street. The discussion continued regarding programs including sliding scale mechanisms and transitional work programs where the patient will need to get a job and pay a portion of their rent. The Department of Corrections (DOC) and their work release program was mentioned as a suggested model.

This topic gave way to the issue of homeless individuals and the vicious cycle of eviction and relapse. The importance of safety nets such as patients given ample notice of benefit termination, or transportation arrangements were possible suggestions.

Market Rent

Mr. Johnson opened the discussion by asking for clarity on what market rent is. The discussion included topics of contracts between the licensed behavioral health care provider and the recovery residence or contracts with the resident and the recovery residence.

Ideas of further defining market rent included as to what market rent is in Palm Beach County. Would defining the term be by the house or by the resident? There are many kinds of market rents for different kinds of institutional housing. Perhaps the way to define market rent is look at the models that is closest to a recovery residence and use that.

Mr. Lehman summarized this discussion in saying "I think we have two different groups here – we have a recovery residence and a commercial recovery residence. What we are doing is we're recognizing that there is a population that needs clinical services and, while they are engaged in those clinical services, they need recovery housing. Typically, what happens is the treatment provider, even though it is against the law, is paying for that \$500 per week to the housing provider and that's the reason why those housing providers that are participating in this have done so because they can make more associating themselves with this treatment provider than they can by going out into the marketplace and offering fair market value rent."

4:30 pm: Comments from the audience were taken at this time.

Mr. Johnson adjourned the meeting at 5:06 pm

Next Meeting

Task Force Proviso Group
Task Force Main Group

Date

October 5, 2016 (Wednesday 9am-5pm)
October 19, 2016

Minutes taken by: AnnMarie Spohnholtz September 13, 2016; transcribed by Mary Ann Senatore

Approved by: Al Johnson