



Notice to: Officers of the Los Angeles, Orange, Riverside, San Bernardino and San Diego County Sober Living Coalitions, Coalition Members

Re: Policy on Minors in Sober Living Homes

August 1, 2009

Summary

It has long been the policy of the Network that affiliated homes may not accept minors as residents. We have had several reports over the last few years about violations of this policy.

Recently the frequency of these reports has increased. In some instances, we have reason to believe that staffs of some member homes have actively solicited minors as residents. While these may be isolated incidents, we want to make sure that the Coalitions are being sufficiently clear with their membership on this subject. Minors are not to be permitted to reside in member homes, under any circumstances. (Homes for women living together with their children are the sole exception.)

This advisory is intended to provide some background on the laws regulating the care of minors in California. The brief summary is this:

- Any facility caring for a minor under 18 years of age must be licensed.
- Sober living homes are not appropriately licensed, and so are not permitted to care for minors.
- That prohibition applies ***even if written parental consent can be obtained.***
- Consequences for the provider include suspension by their local coalition, and removal from the Network's list of preferred homes.
- Potential legal consequences can include sanctions by the Department of Social Services, action by local government, and the risk of litigation.

The following information was compiled for us by someone who has been a professional in adolescent recovery for over two decades:

State law and practice

1. *All minors under the age of 18 years are under the jurisdiction of the Department of Social Services (DSS). All facilities treating minors are required to be licensed by Community Care Licensing under the Department of Social Services (DSS). This is done to insure the general safety and overall welfare of the children.*
2. *All facilities treating children must have a designated individual acting as the Group Home Administrator, certified by the Department of Social Services (DSS).*

Additionally, where adolescents are under the care of someone other than their parents or legal guardians, specific safety measures must be put in place to make sure that the children are kept safe. Prior to hire, all staff must have background checks provided by the Department of Justice completed and fingerprints, processed before hiring. This is to insure that if anyone has put a child at risk or taken advantage of a child in the past or has been



convicted of another type of felony (there are some exceptions if the person has been off probation for more than four years), that this individual will not be allowed to be in any position of supervision or authority over a minor.

Sober living homes do not have these measures in place.

An issue arises immediately when a sober living home has newly recovering adults and minor residents co-habiting. These recovering adults may be learning to stay sober but are not required to have background checks or fingerprints processed and this puts any minor resident at great risk.

Parental Consent doesn't matter

Coalition members in the past have asked if they can accept minors if they have written consent from the parents. This is based on the understandable but mistaken belief that parents have the legal authority to delegate the care of their minor children to anyone of their choosing. ***That is not correct. Parents are not permitted to waive state protections for their children in these circumstances, and in the event problems occur, such permission will offer no protection to the care provider.***

Our expert has some concluding advice:

I have been working in the adolescent treatment field for 24 years. During this time, I have witnessed the institution of many of the rules, laws and regulations that we now follow. Each one of these rules, laws and regulations are in place as a direct result of tragedy: death, molestation, overdose and/or trauma. Needless to say, adhering to these rules today is an important and very necessary safeguard for adolescents in treatment and recovery.

What can happen?

Any facility which cares for minors must have the appropriate licenses. If you're found to have a minor in residence, the **best** that can happen is that you'll have to return them to the custody of a parent or legal guardian. There are a lot of outcomes which could be worse. You could also be cited for operating an unlicensed adolescent care facility. Such facilities do not enjoy the same fair housing protections extended to sober living. That means you will need a zoning variance from your city. If you opt to become licensed to care for minors, you will not be able to serve adults.

Every Southern California Sober Living Coalition prohibits accepting minors as residents. Failure to comply with this policy will result in suspension from the Coalition, and in removal from the Network's list of approved homes.

If an incident involving a minor in your care occurs, you face the very real risk of being sued for negligence, and/or for failure to comply with State regulations regarding protection of minors. Prior parental consent will provide you little if any protection. Providers having additional questions about their legal liabilities in this situation should consult a qualified attorney.