

### HB19-1009: SUBSTANCE USE DISORDERS RECOVERY

Concerning supports for persons recovering from substance use disorders, and, in connection therewith, expanding a program in the department of local affairs that provides vouchers for housing assistance to certain individuals, requiring each recovery residence operating in Colorado to be licensed by the department of public health and environment, and creating the opioid crisis recovery fund

#### Details

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<b>Bill Sponsors:</b>	House – <i>Kennedy (D) and Singer (D)</i> Senate – <i>Priola (R), Pettersen (D)</i>
<b>Committees:</b>	House Public Health Care & Human Services House Appropriations Committee
<b>Bill History:</b>	1/4/2019- Introduced in House 3/6/2019- House Public Health Care & Human Services Refer Amended to Appropriations
<b>Next Action:</b>	Hearing in House Appropriations Committee
<b>Fiscal Note:</b>	<u>2/1/2019 Version</u>

#### Bill Summary

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This bill expands an existing housing voucher program within the Department of Local Affairs (DOLA) to include individuals with a substance use disorder (SUD) and those in certain circumstances while appropriating an additional \$4.3 million annually for the following 5 state fiscal years. Recovery residences that operate in Colorado would be required to be accredited by Colorado Association of Recovery Residences, chartered by Oxford House, or have operated as a recovery residence in the state for 30 or more years. The bill also creates the “opioid crisis recovery funds advisory committee” in order to advise and collaborate with the Department of Law on the uses of any funds received by the state as a result of opioid-related litigation.

#### Issue Summary

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##### Housing First

Housing First is a homeless assistance approach that prioritizes providing permanent housing to people experiencing homelessness. The approach is guided by the principle that an individual needs a basic necessity like housing before they can address other issues like a substance use disorder, obtaining a job, or learning how to budget.<sup>1</sup> The housing in this approach is intended to be permanent but the types of housing provided varies by program. Services that are provided include screening, needs assessment, housing assistance, support services, case management, and sometimes on-site medical or behavioral health care.<sup>2</sup> In this approach SUD services are usually offered, although abstinence and/or treatment are not required for participation.

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<sup>1</sup> National Alliance to End Homelessness (Apr. 2016). *Fact Sheet: Housing First*. Retrieved from <http://endhomelessness.org/wp-content/uploads/2016/04/housing-first-fact-sheet.pdf>

<sup>2</sup> Kertesz, S. G., Crouch, K., Milby, J. B., Cusimano, R. E., & Schumacher, J. E. (2009). Housing first for homeless persons with active addiction: are we overreaching?. *The Milbank quarterly*, 87(2), 495-534.

A study found that individuals with SUD report less housing stability than those without a SUD. It further found that participants in the Housing First group were 17 times more likely than those in a “treatment as usual” group to report sustained housing and high scores on community functioning.<sup>3</sup> It is important to note that all types of SUDs do not respond the same to the Housing First model; one study has shown that stimulant users, such as cocaine, have somewhat less successful housing outcomes than individuals with other SUDs.<sup>4</sup>

### What Are Recovery Residences?

The definition of recovery residences or recovery housing varies depending on the source. For example, the U.S. Government Accountability Office (GAO) described recovery housing as, “peer-run or peer-managed drug and alcohol-free supportive housing for individuals in recovery from substance use disorder.”<sup>5</sup> Whereas the National Council for Behavioral Health broadly defines recovery housing as “safe, healthy, and substance-free living environments that support individuals in recovery from addiction.”<sup>6</sup> Also, the National Association of Recovery Residences (NARR) has created a table that depicts the distinct levels of recovery support that are recognized in their standard.<sup>7</sup>

		RECOVERY RESIDENCE LEVELS OF SUPPORT			
		LEVEL I Peer-Run	LEVEL II Monitored	LEVEL III Supervised	LEVEL IV Service Provider
STANDARDS CRITERIA	ADMINISTRATION	<ul style="list-style-type: none"> <li>• Democratically run</li> <li>• Manual or P&amp;P</li> </ul>	<ul style="list-style-type: none"> <li>• House manager or senior resident</li> <li>• Policy and Procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Organizational hierarchy</li> <li>• Administrative oversight for service providers</li> <li>• Policy and Procedures</li> <li>• Licensing varies from state to state</li> </ul>	<ul style="list-style-type: none"> <li>• Overseen organizational hierarchy</li> <li>• Clinical and administrative supervision</li> <li>• Policy and Procedures</li> <li>• Licensing varies from state to state</li> </ul>
	SERVICES	<ul style="list-style-type: none"> <li>• Drug Screening</li> <li>• House meetings</li> <li>• Self help meetings encouraged</li> </ul>	<ul style="list-style-type: none"> <li>• House rules provide structure</li> <li>• Peer run groups</li> <li>• Drug Screening</li> <li>• House meetings</li> <li>• Involvement in self help and/or treatment services</li> </ul>	<ul style="list-style-type: none"> <li>• Life skill development emphasis</li> <li>• Clinical services utilized in outside community</li> <li>• Service hours provided in house</li> </ul>	<ul style="list-style-type: none"> <li>• Clinical services and programming are provided in house</li> <li>• Life skill development</li> </ul>
	RESIDENCE	<ul style="list-style-type: none"> <li>• Generally single family residences</li> </ul>	<ul style="list-style-type: none"> <li>• Primarily single family residences</li> <li>• Possibly apartments or other dwelling types</li> </ul>	<ul style="list-style-type: none"> <li>• Varies – all types of residential settings</li> </ul>	<ul style="list-style-type: none"> <li>• All types – often a step down phase within care continuum of a treatment center</li> <li>• May be a more institutional in environment</li> </ul>
	STAFF	<ul style="list-style-type: none"> <li>• No paid positions within the residence</li> <li>• Perhaps an overseeing officer</li> </ul>	<ul style="list-style-type: none"> <li>• At least 1 compensated position</li> </ul>	<ul style="list-style-type: none"> <li>• Facility manager</li> <li>• Certified staff or case managers</li> </ul>	<ul style="list-style-type: none"> <li>• Credentialed staff</li> </ul>

<sup>3</sup> Division of Addiction, Cambridge Health Alliance (Jan. 24, 2018). *Substance Use: Housing First or treatment as usual?* Retrieved from <https://www.basisonline.org/2018/01/stash-vol-14-1-substance-use-housing-stability.html>

<sup>4</sup> Edens, E.L., Tsai, J., & Rosenheck, R.A. (2014). Does stimulant use impair housing outcomes in low-demand supportive housing for chronically homeless adults?. *Am J Addict*, 23(3), 243-248. doi: 10.1111/j.1521-0391.2014.12089.x.

<sup>5</sup> U.S. Government Accountability Office (March 2018). *Information on Recovery Housing Prevalence, Selected States’ Oversight, and Funding*. Retrieved from <https://www.gao.gov/assets/700/690831.pdf>

<sup>6</sup> National Council for Behavioral Health (May 2017). *Recovery Housing Issue Brief: Information for State Policymakers*. Retrieved from [https://narronline.org/wp-content/uploads/2017/09/Recovery-Housing-Issue-Brief\\_May-2017.pdf](https://narronline.org/wp-content/uploads/2017/09/Recovery-Housing-Issue-Brief_May-2017.pdf)

<sup>7</sup> NARR (2016). *Recovery Residence Level of Support*. Retrieved from [https://narronline.org/wp-content/uploads/2016/12/NARR\\_levels\\_summary.pdf](https://narronline.org/wp-content/uploads/2016/12/NARR_levels_summary.pdf)

NARR has created ethical and quality standards for operating residences at each of the four levels. The origins and operations of recovery residences are largely based on the principles of Alcoholics Anonymous and the vast majority have some level of participation in 12-step recovery groups.<sup>8</sup>

### Recovery Residences in Colorado

Due to the fact that the state, or any other level of government, does not regulate or license recovery residences operating in Colorado, it is unknown how many businesses and residences exist in the state. Anecdotally it is known that recovery residences have been propagating throughout Colorado cities and towns. These homes frequently are group homes rather than treatment and recovery residences. It has been difficult for local governments to address their concerns with these homes due to limitations mainly arising from federal law, the Fair Housing Act. One prominent issue that was reported widely in the news was the case of the founder of Community Recovery, which ran six sober living homes in Colorado. The founder was criminally charged in connection with sexual assault and insurance fraud.<sup>9</sup>

The Colorado Association of Recovery Residences (CARR) was formed in 2017.<sup>10</sup> One of the many purposes of CARR is to enforce national standards for recovery residences by using the adopted standards of the National Alliance of Recovery Residences. The website currently lists three businesses as CARR certified recovery residences: Mile High Sober Living, Red Rock Recovery, and Sobriety 1<sup>st</sup> Sober Living.<sup>11</sup> None of the CARR certified recovery residences are in Larimer County.

There are currently 55 Oxford House chapter residences in Colorado.<sup>12</sup> Oxford House is the umbrella organization for a network of more than 2,200 democratically-run, self-supporting, and drug-free group homes throughout the country.<sup>13</sup> Oxford House falls into the Level I category of the NARR standards. All Oxford House chapters are rented single-family homes, the average number of residents in a home is 8, and there are no co-ed homes. There are two Oxford House residences in Fort Collins and three in Loveland.

### Federal Law

Federal laws such as the Fair Housing Act prohibit discrimination of protected classes, including on the basis of disability, which includes those in recovery. There have been cases in Colorado and other states where cities and counties adopted new, or employed existing, regulations to impose restrictions on recovery homes, only to be found in violation of the Fair Housing Act by the courts. Additionally, the Americans with Disabilities Act (ADA) requires that states, cities and homeowner associations provide "reasonable accommodations" to individuals with disabilities, including individuals in recovery.<sup>14</sup> Provisions of the ADA and the Fair Housing are intended to ensure that those in recovery can do so as a protected class as long as they are in the process.

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<sup>8</sup> Wittman, F. D., Polcin, D. L., & Sheridan, D. (2017). The Architecture of Recovery: Two Kinds of Housing Assistance for Chronic Homeless Persons with Substance Use Disorders. *Drugs and alcohol today*, 17(3), 157-167.

<sup>9</sup> Osher, C.N. (March 11, 2018). Police found fraud, sex crimes in a Colorado sober-living home empire. The state doesn't regulate the industry. *The Denver Post*. Retrieved from <https://www.denverpost.com/2018/03/11/colorado-sober-living-homes-opioid-crisis-christopher-bathum/>

<sup>10</sup> Colorado Association of Recovery Residences (2018). *About Us*. Retrieved from <https://coloradoassociationofrecoveryresidences.org/about/>

<sup>11</sup> CARR (2018). *CARR Directory*. Accessed on March 4, 2019. Retrieved from [https://carrdirectory.org/listings/?search\\_region=0&search\\_categories%5B%5D=498](https://carrdirectory.org/listings/?search_region=0&search_categories%5B%5D=498)

<sup>12</sup> Oxford House (March 4, 2019). *Oxford Houses of Colorado-Directory*. Retrieved from <http://oxfordhouse.org/pdf/co>

<sup>13</sup> Oxford House (Jan. 2018). *Oxford House Annual Report Fiscal Year 2017*. Retrieved from <https://www.oxfordhouse.org/userfiles/file/doc/ar2017.pdf>

<sup>14</sup> U.S. Commission on Civil Rights (Oct 2000). *Sharing the Dream: Is the ADA Accommodating All?*, Chapter 4. Retrieved from <https://www.usccr.gov/pubs/ada/ch4.htm>

## Colorado's Opioid-Related Litigation

Former Colorado Attorney General Cynthia Coffman filed a lawsuit against Purdue Pharma in September 2018 and alleged that their fraudulent and deceptive marketing of prescription opioids played a significant role in causing the opioid epidemic in Colorado.<sup>15</sup> After current Attorney General Phil Weiser was sworn-in in January 2019, he stated that he would continue the lawsuit commenced by Former Attorney General Coffman and possibly join other against additional drug companies on behalf of the state.<sup>16</sup> In a budget request amendment to the Joint Budget Committee, Attorney General Weiser requested \$535,820 for fiscal year 2019-2020 and \$565,607 for fiscal year 2020-2021 in order to “enhance the Department’s efforts to manage current and future litigation needs to combat the opioid epidemic, improper prescriptions and deceptive sales practices of drug companies.”<sup>17</sup>

## This Legislation

A current program is administered by the Division of Housing, within the Department of Local Affairs (DOLA) which provides vouchers and other support services for housing assistance for people with a mental health disorder or co-occurring behavioral health disorder that is transitioning from the Department of Corrections, Division of Youth Services, or a county jail into the community. The bill adds to the program criteria people with a SUD and those that are in transition from a mental health institute to the community, an individual that is homeless or in an unstable housing environment and is transitioning from a residential treatment program, or is engaged in the community transition specialist program.<sup>18</sup> For fiscal year 2019-2020 and the subsequent four fiscal years, at least \$4.3 million is to be continuously appropriated to the Division of Housing annually for the voucher program. Each year, DOLA will report to the Senate Committee on Health and Human Services, House Committee on Health and Insurance, and the House Committee on Public Health Care and Human Services, during the department’s SMART Act<sup>19</sup> hearing. The report must include the number of projects funded, number of units in each funded project, number of qualified individuals housed as a result of the program, number of individuals who after receiving a voucher returned to the facility from where they were transitioning.

The bill defines “recovery residence” as, “any premises, place, or building that provides housing accommodation for individuals with a primary diagnosis of a SUD that is free from alcohol and non-prescribed or illicit drugs, promotes independent living and life skill development, and provides structured activities and recovery support services that are primarily intended to promote recovery from SUDs. A recovery residence does not include:

- A private residence in which an individual related to the owner of the residence by blood, adoption, or marriage is required to abstain from substance use or receive behavioral health services for a SUD as a condition of residing in the residence
- The supportive residential community for individuals that are homeless at Fort Lyon
- A facility approved for residential treatment by the Office of Behavioral Health (OBH)

After January 1, 2020, a person shall not operate a facility using the term “recovery residence”, “sober living facility”, “sober home”, or a similar term and a health provider or health facility shall not refer people to such a facility unless the facility is:

- Certified by the Colorado Association of Recovery Residences

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<sup>15</sup> CO Attorney General (Sept. 6, 2018). *Colorado Attorney General Cynthia Coffman Sues Purdue Pharma for its Role in Creating the Opioid Epidemic*. Retrieved from <https://coag.gov/press-room/press-releases/09-06-18>

<sup>16</sup> Sherry, A. (Jan. 9, 2019). *What’s Up First on Weiser’s Agenda? ACA, Opioid Crisis and Bail Reform, for Starters*. *Colorado Public Radio*. Retrieved from <https://www.cpr.org/news/story/whats-up-first-on-weisers-agenda-aca-opioid-crisis-and-bail-reform-for-starters>

<sup>17</sup> Colorado Attorney General (Jan. 15, 2019). *News Release: Attorney General Phil Weiser highlights priorities with budget request amendments to Joint Budget Committee*. Retrieved from [https://coag.gov/sites/default/files/filefield\\_paths/ag\\_weiser\\_budget\\_priorities\\_release\\_final\\_1.15.19.pdf](https://coag.gov/sites/default/files/filefield_paths/ag_weiser_budget_priorities_release_final_1.15.19.pdf)

<sup>18</sup> The community transition specialist program was established during the 2018 session with SB18-270, a bill that the Health District Board of Directors voted to support.

<sup>19</sup> State Measurement for Accountable, Responsive, and Transparent Government Act

- Is chartered by Oxford House
- Or has been operating as a recovery residence in the state for 30 or more years, as of the effective date of the bill

A person or a recovery residence owner, employee, administrator, or any of their relatives may not directly or indirectly solicit, accept, or receive a commission, payment, trade, fee, or anything that has monetary or material value:

- For the admission of a resident, except for state or federal contracts that specifically reimburse for resident fees
- From a treatment facility that is licensed or certified by the Department of Public Health and Environment (CDPHE) for the treatment of SUDs for resident fees
- From a facility approved for residential treatment by OBH

One of these individuals also cannot solicit, accept, or receive a commission, payment, trade, fee, or anything that has monetary or material value from a toxicology laboratory that provides confirmation testing or point-of-care testing for residents.

The bill establishes the “opioid crisis recovery funds advisory committee” in order to advise and collaborate with the Department of Law on the uses of any funds received by the state as a result of opioid-addiction-related litigation in which the funds are not predetermined or committed by court order. The Committee consists of appointed members, including:

- 13 members appointed by the Governor (physician, pharmacist, nurse, dentist, veterinarian, physical therapist, representative from a local public health agency, individual who has been affected by the opioid crisis, a family member of a person who has been affected by the opioid crisis, representative from an advocacy organization for people with SUDs, two individuals from a statewide group that represents counties- one from western slope and one from eastern part, representative from an association that represents behavioral health providers)
- 2 members appointed by Executive Director of Department of Human Services (one must represent an association of substance use providers)
- 2 members appointed by Executive Director of CDPHE (one must be a pain management patient)
- 1 member appointed by Executive Director of Department of Regulatory Agencies
- 1 member appointed by Executive Director of Department of Health Care Policy and Financing
- 1 member from the Substance Abuse Trend and Response Task Force, appointed by Attorney General
- 1 member from the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies, appointed by Director of the Center
- 1 member from each safety net hospital that provides addiction services, appointed by the hospital
- 1 member from the Colorado District Attorneys’ Council appointed by the executive director
- 2 members from law enforcement agencies, 1 from the Colorado Association of Chiefs of Police and one from the County Sheriffs of Colorado
- 1 member from the Colorado Municipal League, appointed by the league’s president

Appointments shall be made no later than 90 days after the state receives a settlement or damages award and the Attorney General is to notify the appointing authorities when the state receives such award. Each appointed member serves at the pleasure of the official the appointed them. Any vacancy on the committee is to be filled in the same method as the original appointment. If the state receives an award that is not predetermined or committed by court order, the Attorney General is to convene the committee for a meeting, and any subsequent meetings, to seek input and recommendations on the proper expenditure of the funds. Each member of the committee is to maintain confidentiality throughout the process. Members cannot disclose the contents of any request for funding with anyone outside the committee. Each member must affirm that they do not have a personal or financial interest regarding any organization that may

request funding. Members are to disclose all potential conflicts of interest to the Attorney General before reviewing funding requests.

This bill is effective upon the Governor's signature.

### **Fiscal Note**

The bill requires the General Assembly to appropriate \$4.3 million annually for five years, from FY 2019-20 to FY 2023-24. The majority of the fiscal note dated February 1, 2019, does not reflect the bill as amended in the House Public Health Care & Human Services Committee.

### **Reasons to Support**

Research emphasizes that substance use disorders are legitimate disorders of the brain, that require a full continuum of care (including, but not limited to, MAT and long term recovery residences) in order to give the individual the best chance of recovery. Larimer County has a strong interest in assuring that there are quality recovery residences (that allow continuation of MAT) in our community, in order to have the full continuum of care required for those with substance use disorders. Although funding for the residences themselves was not included in the planning for the recent county ballot initiative, 1A, which was passed to expand access to mental health services, funding for the continuance of SUD counseling and services for people in the residences was included. Having increased funding for vouchers for those who need housing and have a behavioral health condition is a major need in Larimer County.

Affordable housing is incredibly hard to find- and far more difficult for those with mental illness or SUD, who require the stability in order to manage their conditions. For those coming out of state-run institutions, assuring a healthy environment rather than a return to homelessness or to a previously unhealthy environment can help maintain health and stability, and avoid future interactions with local and state health and human services and the criminal justice system.

There is little oversight of the recovery residence industry, whereas other areas of the healthcare system are highly regulated by the state. Recovery residences, which house vulnerable patients, are currently essentially self-policed. Providing a method to account for the residences that market themselves as a recovery residence may aid in knowing how many are operating in the state, and assuring that they are meeting NARR's set of standards, may help with quality. For many individuals, receiving the portion of the continuum of SUD services appropriate to their needs, including the use of recovery residences when indicated, can lead to health and self-sufficiency.

The opioid crisis recovery funds advisory committee may be an important resource to the Attorney General if the state receives funds from opioid-related litigation that does not have court-mandated requirements. It is important that the Attorney General's office hear from a variety of stakeholders on the issue.

### **Supporters**

- AspenPoint
- Boulder County
- Center for Health Progress
- City and County of Denver
- Colorado Academy of Family Physicians
- Colorado Association of Recovery Residences
- Colorado Behavioral Healthcare Council
- Colorado Chapter, College of Emergency Physicians
- Colorado Counties, Inc.
- Colorado Criminal Defense Bar
- Colorado Medical Society
- Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)
- Colorado Psychiatric Society

- Colorado Public Health Association
- Colorado Society of Addiction Medicine
- Counties and Commissioners Acting Together (CCAT)
- David's House
- Denver Health and Hospital Authority
- Disability Law Colorado
- Housing Colorado
- Jefferson County Human Services
- Kaiser Permanente
- League of Women Voters of Colorado
- National Alliance on Mental Illness
- National Association of Social Workers, Colorado Chapter

### Reasons to Oppose

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One question is whether having the industry regulate itself offers strong enough protection for residents, or whether there needs to be objective oversight from those without a vested interest.

Some may voice concern that individuals with a SUD are given priority over other at-risk groups (older adults, those with disabilities) for housing vouchers. A SUD can be categorized as a disability, and some of those who fall into other at-risk groups also have a SUD. Others may assert that the funds for the voucher program should be directed to reducing waitlists for other existing housing programs that need the funds to decrease waitlists. Others may have a concern of allowing people to receive state-funded housing vouchers after relapse as they may believe that not revoking the voucher condones the person's substance use relapse.

### Opponents

- Any opposition has not been made public at this time.

### Other Considerations

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In Larimer County, there is a desire to encourage the development of quality recovery residences that allow the continuation of medication-assisted treatment. There may be some point in the future where our community may want to use funding from the 1A ballot issue to help people either pay for, or receive services in, this type of facility. The language surrounding the receipt of fees or anything of value for the admission of individuals except in certain circumstances is not clear for this intent. If the facility that is to be built with 1A funds is licensed by OBH is licensed for residential treatment it may fall under this exception. Furthermore, there may be a bill introduced later in session to move licensing of facilities to the Department of Public Health and Environment, this bill does not address that possible change. If it passes the General Assembly before the introduction of such a bill, there may need to be clarification on the issue in the 2020 legislative session.

Social stigma and NIMBY (not in my back yard) attitudes toward substance use disorders, homelessness, and mental illness need to be addressed to assist in recovery and in finding residences that will accept the DOLA vouchers.

A recent study asserted that there is a need for further studies to address operational characteristics of recovery residences and their associations with outcomes.<sup>20</sup> The authors assert that important questions to consider include: What is the differential impact of housing that is affiliated with professional services, such as treatment or case management, versus housing that does not offer those services? What is the differential impact of houses that are primarily staff run versus peer run? What is the differential impact of houses that are communally organized (shared space) versus individually organized (private room or apartment)?

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<sup>20</sup> Wittman, F. D., Polcin, D. L., & Sheridan, D. (2017). The Architecture of Recovery: Two Kinds of Housing Assistance for Chronic Homeless Persons with Substance Use Disorders. *Drugs and alcohol today*, 17(3), 157-167.

**About this Analysis**

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This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. This analysis is accurate to staff knowledge as of date printed. For more information about this summary or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at [awilliams@healthdistrict.org](mailto:awilliams@healthdistrict.org).