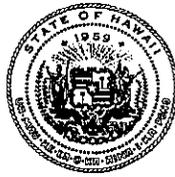


TESTIMONY

SB2536

**HTH/PGM, WAM
Committee Hearing
02/15/2012**



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

**Senate Committee on Public Safety, Government Operations, and Military Affairs
and the Senate Committee on Health**

SB 2536, Relating to Clean and Sober Homes and Halfway Houses

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

Wednesday, February 15, 2012

1 **Department's Position:** The department opposes this bill at this time because it is not needed.

2 **Fiscal Implications:** Significant departmental staff time and effort will be needed to address various
3 task force initiatives (occupancy requirement, accountability plan, inventory of homes, legislative
4 reports); coordinate and facilitate various meetings; general task force minutes; as well as developing all
5 task force deliverables.

6 **Purpose and Justification:** The purpose of this bill is to establish a clean and sober home and halfway
7 house task force to establish a clear, legal definition of a clean and sober home, to establish occupancy
8 requirements, accountability, determine an inventory, balance community concerns with the needs of
9 clean and sober homes and halfway house occupants, and report to the legislature.

10 The task force would be made up of the director of health or designee as the chair, and the
11 directors or designees of each county's planning departments, as well as homeless advocates,
12 representatives from clean and sober homes and halfway houses, legislative representatives, and others
13 as appropriate and as determined by the director of health.

1 This bill is not needed because clean and sober homes and halfway houses have already been
2 defined by law for the purpose of providing persons with a place to live in the community in a less
3 structured home-like environment following their release from a therapeutic treatment facility or from
4 incarceration. In addition, the counties have land use ordinances and zoning, building permit and
5 conditional use permit requirements that oversee these homes. The concerns of neighboring residents
6 regarding public safety, traffic congestion, construction requirements or occupancy, etc., while
7 understandable, are addressed by current laws under the jurisdiction of counties, police or other law
8 enforcement organizations.

9 As a result, the purpose of the task force is already being done under current law.

10 Thank you for the opportunity to testify in opposition to this bill.



submitted by: Alan Johnson

HAWAII SUBSTANCE ABUSE COALITION

SB 2536 RELATING TO THE REGULATION OF CLEAN AND SOBER HOMES AND HALFWAY HOUSES.

Establishes a clean and sober task force to address community concerns.

- SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS
 - Senator Will Espero, Chair
 - Senator Michelle Kidani, Vice Chair
- SENATE COMMITTEE ON HEALTH
 - Senator Josh Green M.D., Chair
 - Senator Clarence Nishihara, Vice Chair
- February 15, 2012, 2:45 p.m.
- Conference Room 229

HAWAII SUBSTANCE ABUSE COALITION (HSAC) Supports SB2536:

Aloha Senator Espero, Senator Green, Chairs; Senator Kidani, Senator Nishihara, Vice Chairs; and Distinguished Committee Members. My name is Alan Johnson, Chair of the Hawaii Substance Abuse Coalition, a hui of about 20 treatment and prevention agencies across the state.

SUMMARY

The vast majority of clean and sober homes are independent owners who have a landlord-tenant relationship. Some of the owners/lessors violate their county land use permits by overcrowding, which results in noise and parking complaints from neighbors. Despite house rules, the tenants generally govern themselves such that the housing is considered independent living – that is; there is no program that could involve state oversight. Since alcoholism and past illicit drug use are considered disabilities, they are subject to protection laws under the Federal Fair Housing, the Rehabilitation Act and the Americans with Disabilities Act. A task force would consider how to ensure compliance to regulations without using restrictions that are discriminatory.

Recommendation:

We suggest starting where some other states are starting. We propose a Task Force to consider the following:

1. Define independent living within the context of clean and sober housing in order to determine which models fall under protection.
2. Get legal reviews about the liability issues of subjecting clean and sober houses to public informational meetings, neighborhood board approvals, public agency oversight, and licensure that may be considered discriminatory acts to people with disabilities.
3. Evaluate what is legal to regulate and ensure that such regulation is applicable to all groups of community living including the general public.
4. Add to the task force, one member of the Mayor's Office, and members of applicable neighborhood boards.

Community Problems

The problem to the community is that because clean and sober houses are generally independent living and operated by a democratic process by the residents, some homes are not always well regulated with respect to traffic, parking and noise. It's a problem to accredited healthcare providers too because they are required to obtain a license to operate "managed" therapeutic living homes but neighborhoods are reluctant to approve them given their negative experience with unpopular clean and sober houses. Compounding the issue is that independent living for those with disabilities are protected by Federal law. Many communities throughout the nation have been frustrated with lack of accountability and have enacted regulations only to see them struck down in court.

In 2002, for example, Florida passed an ordinance that enacted regulations on sober houses prompting the ACLU to sue for discrimination, which resulted in payments for more than \$600,000 to sober-house operators.¹

While clean and sober houses have been around in Hawaii for several decades, there is a surge of many new rentals because 1) treatment agencies are encouraging self-help/ supportive living; 2) there are a growing number – in the thousands - of recovering individuals now reentering communities each year; and 3) landlords are assured of long term tenancy and profitability.

Recent surveys from several states indicate that the clear majority of people are in favor of clean and sober houses. Further, the well-run clean and sober housing organizations, such as Oxford House, are considered good neighbors after they are established for at least a year.² As more and more recovering individuals seek independent living in a supportive environment as a means to transition to drug-free living, we can expect many more sober living housing in the very near future.

While many sober houses are well-run, the poorly-run have a greater impact to the community, often resulting in NIMBY (Not In My Back Yard) issues to problem-free clean and sober housing.

Conclusion:

A clean and sober house that is self-run, self-supported, disciplined practice of rules and regulations helps to bring hope to those in recovery who have suffered from addiction. Well run self-help housing is a positive contribution to community. Poorly-run self-help housing creates negative community relations. It's important to enact regulations that would not be challenged and possibly lost in court. The task force could evaluate the problem from a community, legal, healthcare and disability perspective.

We appreciate the opportunity to testify and are available for testimony.

References:

1) Matt Snyders, Sobriety Check: Neighbors turn to St. Paul City Council to provide more oversight on sober homes, Minneapolis News, October 08, 2007

2) Journal of Prevention & Intervention in the Community (The Hayworth Press), This Is My Neighborhood: Comparing United States and Australian Oxford House Neighborhoods Vol. 31, No. 1/2, 2006, pp 41-49



HAWAII DISABILITY RIGHTS CENTER

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THE SENATE THE TWENTY-SIXTH LEGISLATURE REGULAR SESSION OF 2012

Committee on Health Committee on Public Safety, Government Operations, and Military Affairs Testimony in Support Of S.B. 2536 Relating to Clean and Sober Homes and Halfway Houses

**Wednesday, February 15, 2012, 2:45 P.M.
Conference Room 229**

Chair Green, Chair Espero, and Members of the Committees:

The Hawaii Disability Rights Center testifies in support of this bill.

In contrast to other bills being heard this session which would require the licensure of clean and sober homes, there seems to be consensus that a Task Force of this nature is a sounder approach to the issue.

If we are to achieve the capacity to care for these individuals, then it is essential that we have the ability to find and site suitable residential settings. Additionally, the Olmstead decision of the US Supreme Court mandates that individuals with disabilities be able to reside in community based, integrated settings.

Despite the fact that the ADA and the Fair Housing Act provide legal protection, some communities are concerned about a proliferation of homes of this nature. We understand that and recognize that these are complex issues that affect a variety of competing interests. For that reason, convening a Task Force is a worthwhile idea. It can explore ways to address community concerns without compromising federal law or the ability of these individuals to receive the help and treatment they need.

Thank you for the opportunity to testify in support of this measure.

