



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

In reply, please refer to:
File:

Senate Committee on Health

S.B. 166, Relating to the Clean and Sober Home and Halfway House Task Force

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health
January 28, 2011**

1 **Department's Position:** The Department of Health (DOH) opposes the licensing of clean and
2 sober homes and halfway houses, however, we would support passage of this measure with
3 recommended amendments.

4 **Fiscal Implications:** No funds are appropriated, however, costs will be incurred to cover
5 reimbursement of task force members' necessary expenses, including travel expenses, incurred
6 in the performance of their official duties.

7 **Purpose and Justification:** Clean and sober homes and halfway houses provide a means for
8 persons to prepare to return to the community through support in a less structured home-like
9 environment but without the structure or therapeutic care of a Special Treatment Facility (STF)
10 or Therapeutic Living Program (TLP), which are licensed by the Department. Clean and sober
11 homes and halfway houses do not provide therapeutic care that would be required to be licensed
12 by the Department of Health (DOH). Rather, these homes are established to provide a residence
13 for someone who has been released from a therapeutic treatment facility or from incarceration
14 and are solely community living residences.

15 While County ordinances address residential zoning and building requirements, public
16 safety, traffic congestion, occupancy, etc., we are cognizant of community concerns and would
17 support formation of the proposed task force with the following recommendations:

- 1 ▪ Amending the purpose clause (page 1, lines 11-14) for establishing the task force:
2 “... to examine agencies’ roles and responsibilities with respect to clean and sober homes
3 and halfway houses.”
- 4 ▪ Adding representation of Neighbor Island counties, the Judiciary, Hawaii Paroling
5 Authority, and the Department of Health, Office of Health Care Assurance to the task
6 force membership (Section 2(b)).

7 Thank you for the opportunity to testify on this measure.

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SB 166 Relating To The Clean And Sober Home And Halfway House Task Force. Establishes a task force, within the department of health, to regulate clean and sober homes and halfway houses.

- SENATE COMMITTEE ON HEALTH:
- Senator Green, M.D., Chair; Senator Nishihara, Vice Chair
- Friday, January 28, 2011, 2:45 PM, Conference Room 229

**HAWAII SUBSTANCE ABUSE COALITION (HSAC)
Strongly Supports SB166:**

GOOD MORNING CHAIR GREEN, VICE CHAIR NISHIHARA AND DISTINGUISHED COMMITTEE MEMBERS:

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.

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.

Recommendation:

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

- First, let's define independent living within the context of clean and sober housing in order to determine which models fall under protection.
- Second, let's 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.
- Finally, let's evaluate what is legal to regulate and ensure that such regulation is applicable to all groups of community living including the general public.

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 not would 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

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- Senator Green, M.D., Chair; Senator Nishihara, Vice Chair
- Friday, January 28, 2011, 2:45 PM, Conference Room 229

KŪ ALOHA OLA MAU Strongly Supports SB166:

GOOD MORNING CHAIR GREEN, VICE CHAIR NISHIHARA AND DISTINGUISHED COMMITTEE MEMBERS:

SUMMARY

The vast majority of clean and sober homes are independent owners who have a landlord-tenant relationship. Some of these owners/lessors violate their county land use permits by overcrowding, which results in noise and parking complaints from neighbors. 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.

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 and there is no state oversight..

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.

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. 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.

Recommendation:

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

- First, let's define independent living within the context of clean and sober housing in order to determine which models fall under protection.
- Second, let's 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.
- Finally, let's evaluate what is legal to regulate and ensure that such regulation is applicable to all groups of community living including the general public.

Conclusion:

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.

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- SENATE COMMITTEE ON HEALTH:
- Senator Green, M.D., Chair; Senator Nishihara, Vice Chair
- Friday, January 28, 2011, 2:45 PM, Conference Room 229

My name is Linda Rich and I am providing written testimony in favor of SB166.

I am a social worker, certified substance abuse counselor and substance abuse program administrator.

ALOHA CHAIR GREEN, VICE CHAIR NISHIHARA AND DISTINGUISHED COMMITTEE MEMBERS:

A task force to consider how to ensure compliance to regulations without using restrictions that are discriminatory is needed for several reasons.

- Clean and sober homes are a valuable resource in the prevention of relapse and in preventing homelessness.
- Most are the property of independent owners who have a landlord-tenant relationship with the occupants. Some owners do violate their county land use permits by overcrowding, which results in noise and parking complaints from neighbors, however there are already legal remedies in place for this.
- Tenants generally govern themselves and develop mutually agreed upon house rules. There is no formal 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

The Challenges:

Clean and sober houses are generally independent living, operated by a democratic process by the residents. **They are not programs run by an agency.** In the past, some individuals living in homes have not always respected the needs of their neighbors regarding traffic, parking and noise.

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 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) many individuals completing residential treatment programs have been homeless or are unable to return to previous living arrangements because there are drug users in the home and 4) landlords are assured of long term tenancy and profitability.

Accredited healthcare providers 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.

Independent living for those with disabilities is 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

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. 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.

Solution:

A Task Force could do the following:

- Define independent living within the context of clean and sober housing in order to determine which models fall under protection.
- 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.
- Evaluate what is legal to regulate and ensure that such regulation is applicable to all groups of community living including the general public.

Conclusion:

Clean and sober houses that are self-run and self-supported, with disciplined practice of rules and regulations are a positive contribution to community. They improve treatment outcomes and prevent homelessness. Poorly-run self-help housing creates negative community relations. It’s important to enact only regulations that are non-discriminatory and do not create unneeded barriers to those attempting to remain clean and sober. The task force could evaluate the problem from a community, legal, healthcare and disability perspective.

Thank you for the opportunity to provide this testimony.