

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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In reply, please refer to:  
File:

### House Committee on Finance

### SB 2536 HD1, Clean and Sober Homes and Halfway Houses

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

March 30, 2012

1 **Department's Position:** The Department of Health wishes to provide an alternative approach that more  
2 immediately addresses the concerns regarding clean and sober homes and halfway houses.

3 **Fiscal Implications:** Although no funds are appropriated in this measure for staffing and operating  
4 costs, it is estimated that approximately \$31,347 would be needed to implement the task force or the  
5 proposed alternative approach.

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

14 Clean and sober homes and halfway houses provide a means for persons to prepare to return to  
15 the community through support in a less structured home-like environment. These homes are clearly

1 established to provide a community living or group living residence for someone who has been released  
2 from a therapeutic treatment facility or from incarceration. The Department contracts for referrals and  
3 placements to clean and sober homes. For example, the Alcohol and Drug Abuse Division substance  
4 abuse treatment providers currently contract with eight clean and sober homes. Approximately 176  
5 referrals are made annually; 88 on Hawaii, 62 on Maui, 1 on Molokai and 25 on Oahu.

6 The Department does not have enforcement authority over county ordinances, zoning and law  
7 enforcement. If there are concerns about current laws and their enforcement, these actions would be  
8 more appropriately directed at the county level and by those at the state level who have jurisdiction in  
9 these areas. The counties have land use ordinances, zoning, building permit and conditional use permit  
10 requirements that oversee these kinds of group living homes whether the homes are for college  
11 fraternities or sororities, adult residential care homes, or as homes for persons included under the federal  
12 Fair Housing Act. The concerns of neighboring residents regarding public safety, traffic congestion,  
13 construction requirements etc., while understandable, are addressed by current laws under the  
14 jurisdiction and the enforcement of the counties and organizations such as the police.

15 The Legislature may also want to consider adoption of H.C.R. 111, which in part proposes the  
16 revisiting of definitions in Section 46-4, Hawaii Revised Statutes, and having the Legislative Reference  
17 Bureau research county ordinances that affect conditional use provisions.

18 The Department proposes a work group composed of stakeholder state agencies (i.e., Department  
19 of Public Safety, Hawaii Paroling Authority, Judiciary - Adult Client Services (i.e., Adult Probation)  
20 who refer clients to clean and sober homes and halfway houses. The goal of the proposed work group  
21 would be to improve clean and sober homes and halfway houses through the referral and placement  
22 process, including but not limited to: identifying referring agencies and clientele (e.g., offenders,  
23 substance abusers, mental health, etc.); identifying the location of homes that are contracted by State

1 agencies; and defining the magnitude of the problem, beginning with Oahu and subsequently, the  
2 Neighbor Islands.

3 The work group would also review: agencies' criteria for referral and placement of clients and  
4 ways to strengthen the criteria; agencies' policies and procedures (e.g., on-site visits and monitoring);  
5 home operator qualifications; house rules (e.g., on-premise drinking/drug use); and home operators'  
6 follow-up on complaints.

7 In anticipation of the results of the work group, new roles and responsibilities for coordination  
8 will be identified which may require added resources to effectively address community concerns.  
9 Should the Legislature appropriate funding, the Department recommends that such funding be  
10 appropriated to the Alcohol and Drug Abuse Division which would report to the 2013 legislature on  
11 behalf of the participating State agencies.

( 12 Thank you for the opportunity to testify on this bill.

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HAWAII SUBSTANCE ABUSE COALITION

## SB 2536 HD1 RELATING TO THE REGULATION OF CLEAN AND SOBER HOMES AND HALFWAY HOUSES.

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

- COMMITTEE ON FINANCE: Representative Marcus Oshiro, Chair; Representative Marilyn Lee, Vice Chair
- March 30, 2012, 3:00 p.m.
- Conference Room 308

## HAWAII SUBSTANCE ABUSE COALITION (HSAC) Supports SB2536:

Aloha Representative Oshiro, Chair; Representative Lee, Vice Chair; 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 that this is primarily a county issue, which would be best to include county participation in the work group. We suggest the following, which other states did start at::

1. Add to the task force, one member of the Mayor's Office, and members of applicable neighborhood boards.
2. Define independent living within the context of clean and sober housing in order to determine which models fall under protection.
3. 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.
4. Evaluate what is legal to regulate and ensure that such regulation is applicable to all groups of community living including the general public.

### 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.<sup>1</sup>

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.<sup>2</sup> 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