



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

In reply, please refer to:
File:

House Committee on Health and Human Services

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**

Tuesday, March 20, 2012

1 **Department's Position:** The department OPPOSES this bill as unnecessary.

2 **Fiscal Implications:** Although no funds are appropriated in this measure for staffing and operating
3 costs, it is estimated that approximately \$31,347 will be needed to convene the proposed clean and sober
4 home and halfway house task force.

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

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

13 Clean and sober homes and halfway houses provide a means for persons to prepare to return to
14 the community through support in a less structured home-like environment. These homes are clearly
15 established to provide a community living or group living residence for someone who has been released

1 from a therapeutic treatment facility or from incarceration. The counties have land use ordinances,
2 zoning, building permit and conditional use permit requirements that oversee these kinds of group living
3 homes whether the homes are for college fraternities or sororities, adult residential care homes, or as
4 homes for persons included under the Federal Fair Housing Act. The concerns of neighboring residents
5 regarding public safety, traffic congestion, construction requirements or occupancy, etc., while
6 understandable, are addressed by current laws under the jurisdiction of counties, police or other law
7 enforcement organizations.

8 The time and effort to undertake this task force is unnecessary given current federal, state and
9 county laws and other more pressing priorities.

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



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.

- COMMITTEE ON HEALTH: Representative Ryan Yamane, Chair; Representative Dee Morikawa, Vice Chair
- COMMITTEE ON HUMAN SERVICES: Representative John Mizuno, Chair; Representative Jo Jordan, Vice Chair
- March 20, 2012, 10:00 a.m.
- Conference Room 329

HAWAII SUBSTANCE ABUSE COALITION (HSAC) Supports SB2536:

Aloha Representative Yamane, Chair; Representative Mizuno, Chair; Representative Morikawa, Vice Chair; Representative Jordan, 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 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