

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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In reply, please refer to:
File:

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

SB 2682, Relating to Clean and Sober and Halfway Home Regulation

**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 as unnecessary and possibly illegal.

2 **Fiscal Implications:** Operating costs will depend on the number of homes to license and cannot be
3 quantified at this time. However, assuming even a small quantity of homes distributed throughout the
4 state, this bill could require as many as 2 full-time staff to perform licensing and monitoring activities
5 including complaint investigations.

6 **Purpose and Justification:** This bill would establish a licensing requirement for all clean and sober
7 homes and halfway houses and require the department of health to establish rules to oversee them
8 including identifying best practices for communicating with the surrounding community and requiring
9 the operator to conduct at least 1 public informational meeting at a neighborhood board or at a county
10 council meeting.

11 Clean and sober homes and halfway houses provide a means for persons to prepare to return to
12 the community through support in a less structured home-like environment. These homes and houses do
13 not provide therapeutic care as would be required to be licensed by the department. These homes are
14 established to provide a residence for someone who has been released from a therapeutic treatment

1 facility or from incarceration. These are solely community living or group living facilities whereas the
2 DOH licenses health care facilities that provide active treatment and health care.

3 Further, the counties have land use ordinances, building permit and conditional use permit
4 requirements that govern group living homes. The concerns of neighboring residents regarding public
5 safety, traffic congestion, construction requirements or occupancy, etc. are concerns for counties, police
6 or other law enforcement organizations. In short, laws governing those matters are already in place.

7 Of greatest concern is the Federal Fair Housing Act which prohibits discrimination on the basis
8 of disability and includes persons with mental or physical impairments. These impairments include
9 mental retardation, substance abuse, and mental illness. The law also makes it illegal for local
10 governments to deny a permit for a home because of the disability of individuals who live or would live
11 there. However, this bill would require the DOH to consider the testimony at a public informational
12 meeting in determining whether to grant a license. To deny a license because of the kind of individuals
13 with disabilities who live or would live there is against federal law.

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



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 Opposition To S.B.2682 Relating to Clean and Sober and Halfway Home Regulation

**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 opposition to this bill.

In various forms, this issue has been considered for the past several sessions at the legislature. We had been under the impression that there was some consensus that there was sufficient interest in forming a Task Force to look at the issues surrounding these homes. We still feel that would be a sounder approach. We are not unsympathetic to communities that have concerns regarding various homes. However, if we are to achieve the capacity to care for individuals in the community, 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.

As to some specific provisions in the bill, we have particular opposition. There is no reason to require that clean and sober homes be licensed. Under the current regulatory scheme, a license would be required if any form of treatment or therapy were carried on at the home. These are simply places to live for certain individuals and nothing further. For that reason, there is no basis upon which to require a license. It seems discriminatory to require a license for these individuals, when no such requirement is imposed upon other homes where people simply reside together.



The most concerning provision in the bill is on page 3 where it states that comments from neighbors are to be considered in the granting or denial of a license. This completely violates the Federal Fair Housing Act as it sets up a different standard for the ability of individuals with disabilities to reside in the community. They have the same right to reside in the same areas as any other individual and any provision which would give any form of veto power or even required "consideration" of the views of neighbors would be blatantly illegal.

Thank you for the opportunity to testify in opposition to this measure.