Town Hall Meeting

“Discussion on Sober Living Homes”

MARCH 29, 2016
7PM – 9PM

MISSION VIEJO COUNCIL CHAMBER
200 CIVIC CENTER, MISSION VIEJO
HOSTED BY COUNCIL MEMBER ED SACHS

1. Legal Briefing – City Attorney William P. Curley, III
   Mr. Curley will provide an overview of the laws governing the establishment of Sober Living Homes including the Americans with Disabilities Act (ADA), recent litigation against cities, a legal perspective on best practices to avoid litigation, and strategies various cities have implemented to address Sober Living Homes including what works, what doesn’t, and lessons learned.

2. Law Enforcement and Code Enforcement Perspective
   Chief of Police Services, Lt. Brad NewMyer and Director of Community Development, Elaine Lister, will discuss existing laws and City codes that are in place to deal with any nuisance complaints in residential neighborhoods.

3. Legislative Efforts Currently in Process
   • A representative from Assembly Member Bill Brough’s office will discuss legislation the Assemblyman has authored and co-authored.
   • A representative from the League of California Cities will discuss their sponsored legislation AB 2403 (Bloom).
   • A representative from Association of California Cities Orange County will discuss their sponsored legislation AB 2722 (Chang).

4. Question and Answer
DATE: March 29, 2016
TO: Ed Sachs, Council Member
FROM: William P. Curley, III, City Attorney
SUBJECT: POINTS TO ACKNOWLEDGE AT THE TOWN HALL MEETING

1. This is not a meeting of the City Council but instead a public meeting held by Councilman Ed Sachs.

2. No discussions are being made; this is only for education and general inquiry. The City is sponsoring the session for education and information purposes.

3. We are not and will not address or discuss any specific property, owner or organization.

4. We do not intend to discuss the laws defining who is handicapped or the aspects of how handicapped a person may be perceived to be.

5. The City is not providing legal advice nor advocating anyone to support or oppose legislation. Sample documents are provided for educational purposes. Other non-city entities or officials present may advocate for a political or legal position.

6. The City does not endorse the commentary of any person, other than in an educational capacity.
CITY OF MISSION VIEJO
Living Houses
(Sober and Otherwise)

Presented by:
William P. Curley, III
“Commitment to the rule of law provides a basic assurance that people can know what to expect whether what they do is popular or unpopular at the time.”

- Sandra Day O’Connor

“You have to accept the rule of law, even when its inconvenient, if you’re going to be a country that abides by the rule of the law.”

- Jesse Ventura
CAN REGULAR CITY CODE ENFORCEMENT BE CARRIED OUT?

YES:

• Nuisance Abatement
• Noise Regulation
• Maintenance Standards
• Common Community Regulations
ARE SOBER LIVING HOUSES REGULATED?

NO, except like every other single family house.
Questions

Are Sober living facilities State, County or City sponsored or part of any governmental program?

NO.
Does the City get consulted, or should it, under law, when someone wants to assist the handicapped individuals seeking, or commencing, a sober living home?

NO.
Can the City reject, prohibit or “manage” sober living home activity?

NO.
Questions

Are there positive “industry” organizations that help sober living homes and their residents educate the public that they are handicapped and have enforceable rights?

YES.
WHAT HAPPENS IF THE CITY, OR ANYONE, TRIES TO TREAT THIS HOUSEHOLD DIFFERENTLY THAN EVERY OTHER HOUSEHOLD IN THE CITY?

BAD THINGS:

• DISCRIMINATION!!
• Huge Public Payments for Damage Awards
• City Reputation Suffers (Economic & Social Harm)
DISTINCTIONS AMONG CALIFORNIA GROUP HOME TYPES FOR PERSONS WITH DISABILITIES

<table>
<thead>
<tr>
<th>Distinctions</th>
<th>Drug &amp; Alcohol Residential Treatment Facilities</th>
<th>Community Care Residential Facilities</th>
<th>Sober Living &amp; Other Independent Living</th>
</tr>
</thead>
<tbody>
<tr>
<td>PURPOSE OF GROUP HOME</td>
<td>Drug and alcohol rehabilitation</td>
<td>Non-medical care and supervision essential for maintaining activities of daily living</td>
<td>Residents function as a family. No treatment or care is provided or required though residents may choose to receive care elsewhere</td>
</tr>
<tr>
<td>CLASS OF PERSONS WHO LIVE IN GROUP HOMES</td>
<td>Adult alcoholics and drug addicts needing treatment</td>
<td>Mentally ill, developmentally disabled, and other disabilities</td>
<td>Adults with disabilities who do not require care and supervision</td>
</tr>
<tr>
<td>REQUIRED TO BE LICENSED?</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>REGULATORY AUTHORITY</td>
<td>State Department of Alcohol and Drug Programs (ADP)</td>
<td>Department of Social Services (Community Care)</td>
<td>Zoning regulations that apply to residential dwelling units</td>
</tr>
<tr>
<td>ROSTER OF LOCATIONS</td>
<td>State Department of Alcohol and Drug Programs listed by county: <a href="http://www.adp.state.ca.us/Licensing/pdf/Statue_Report.pdf">http://www.adp.state.ca.us/Licensing/pdf/Statue_Report.pdf</a></td>
<td>State Department of Social Services—Community Care Licensing</td>
<td>There are some voluntary local or state associations that list participating homes</td>
</tr>
<tr>
<td>ZONING REGULATIONS FOR 6 OR FEWER PERSONS</td>
<td>State law pre-empts local zoning restrictions for 6 or fewer</td>
<td>State law pre-empts local zoning restrictions for 6 or fewer</td>
<td>N/A</td>
</tr>
<tr>
<td>ZONING REGULATIONS FOR 7 OR MORE PERSONS</td>
<td>Conditional Use Permit usually required by local government. Reasonable accommodation may be granted per fair housing laws</td>
<td>Conditional Use Permit usually required by local government. Reasonable accommodation may be granted per fair housing laws</td>
<td>None if functioning as a family of unrelated adults in a single family dwelling unit. (See City of Santa Barbara v. Adamson, CA Supreme Court, 1980)</td>
</tr>
<tr>
<td>ON-SITE MANAGEMENT &amp; STAFF</td>
<td>Yes</td>
<td>Yes</td>
<td>May employ house manager etc. as other familiess may employ staff to help but no treatment, care or supervision is provided</td>
</tr>
<tr>
<td>MANAGEMENT &amp; STAFF RESPONSIBILITIES</td>
<td>Provide treatment/recovery services; ensure property and program compliance.</td>
<td>Provide care and supervision; ensure property and program compliance.</td>
<td>N/A</td>
</tr>
<tr>
<td>REVENUE</td>
<td>Client fees/third party public/private funding</td>
<td>Client fees/third party public/private funding</td>
<td>Rent &amp; sometimes third party funding</td>
</tr>
<tr>
<td>REPORT PROBLEMS TO:</td>
<td>1. Facility</td>
<td>1. Facility</td>
<td>• Property owner</td>
</tr>
<tr>
<td></td>
<td>If unsatisfactory response report to:</td>
<td>If unsatisfactory response report to:</td>
<td>• Law enforcement</td>
</tr>
<tr>
<td></td>
<td>2. Alcohol &amp; Drug Programs</td>
<td>2. Community Care Licensing</td>
<td>• Code enforcement</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Elected officials</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Local association if member</td>
</tr>
<tr>
<td>CONSEQUENCES OF NUISANCE</td>
<td>Potential loss of license</td>
<td>Potential loss of license</td>
<td>County/municipal fines, civil suit; loss of registration in voluntary associations, shut down home</td>
</tr>
</tbody>
</table>

*Futures, STEP - Rev 1, August 2009*
Applicable Laws and Current Litigation
A “single housekeeping unit” is:

The functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities, such as meals, chores, household maintenance and expenses, and where, if the dwelling unit is rented, all adult residents have chosen to jointly occupy the entire premises, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the dwelling unit rather than the landlord or property manager.
APPLICABLE LAWS

• Federal Fair Housing Act
• Americans with Disabilities Act
• Rehabilitation Act
• Civil Rights Act of 1871
• Fair Employment and Housing Act
• State Zoning Powers
Excerpt from Federal Fair Housing Amendments Act of 1988

Sec. 802 (42 U.S.C. 3602) Definitions.

...”h” ‘Handicap’ means, with respect to a person –

1. A physical or mental impairment which substantially limits one or more of such person’s major life activities,

2. A record of having such impairment, or

3. Being regarded as having an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (definition omitted).
• Regulations must equally apply to all single family dwelling units. Regulation of the “who” instead of resident conduct results in legal challenges for violation of anti-discrimination laws.

• Government must respect every person and treat them with dignity and respect. The laws allow for penalties when that duty is ignored, by government or the public.
The evidence is in what you say or do, or don’t say or do!

Evidence comes from:

- City Council
- City Staff
- City Residents
- Speakers/writers to the City
Those ________ are _________ and should be _________.
A GAME ABOUT DISCRIMINATION

Those NEIGHBORS are TRYING and should be RESPECTED.

Not discriminatory.
A GAME ABOUT DISCRIMINATION

Those PEOPLE are BAD and should be BANISHED.

Discriminatory.
Those LAWYERS are WEIRD and should be WATCHED.

Sadly, legal...
A GAME ABOUT DISCRIMINATION

• If the City agrees with the discriminatory commentary: Liability

• If the City says nothing, it appears to support the viewpoint in its governmental capacity: Liability

• If the City actively rejects the speaker’s viewpoint: No Liability
A GAME ABOUT DISCRIMINATION

- The community must help the City do the “right thing.”

- Until the laws are different, we must all do the right thing.
Newport Beach settles legal battle over sober-living homes

BY MEGAN NICOLAI
2015-07-15 19:58:08

Newport Beach has reached the end of its seven-year legal battle over sober-living homes with a settlement agreement announced Tuesday.

City attorney Aaron Harp said Newport Beach settled lawsuits with Pacific Shores Properties, Newport Coast Recovery and Yellowstone Women’s First Step House, for a total of $5.25 million.

The city spent at least $4 million in legal proceedings on the cases, according to Register archives.
Costa Mesa's sober-living regulations on hold after injunction by federal appeal court

By JORDAN GRAHAM
2015-12-10 19:41:56

COSTA MESA – The city won’t be able to enforce its law regulating where and how sober-living homes can operate in Costa Mesa after a federal appeals court issued an injunction of the 2014 ordinance.

Two judges from the Ninth U.S. Circuit Court of Appeals on Wednesday granted a motion for injunction from plaintiff Solid Landings Behavioral Health, a Costa Mesa-based operator of numerous sober-living homes and other drug rehab facilities. The injunction puts a halt to enforcement of a law the city has successfully defended at the district level, and which other Orange County cities have considered emulating to address their own sober-living home issues.
Questions
MISSION VIEJO POLICE SERVICES

Lieutenant Brad NewMyer
Orange County Sheriff’s Department
Elements of the crime:
Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

Multiple Responses to Loud or Disruptive Parties, Gatherings or Events- in part:

B. 1. First response and warning: no charge
   2. First response after warning has been issued: $250.00
   3. Second response after warning has been issued: $500.00
   4. Third response and all additional after warning has been issued: $750.00
   (The police services fee is cumulative)
Code Enforcement and Building Services

Code Enforcement can address the exterior and aesthetic conditions of the property.

For example under Municipal Code Section 9.59.110 “Nuisances Designated.”

- **Landscape/Maintenance of front yard**: including but not limited to, weeds, vegetation growing over Public Right of Way, or any dead vegetation including trees seen from the front yard.
Mission Viejo Code Enforcement

- **Maintenance of Structures**: Paint on the exterior of the residence including garage door, trim, broken windows, condition of pools and spa including condition of pool barriers.

- **Storage of Debris in front yard area**: Lumber, junk, trash, salvage materials, furniture, and trash cans stored in public view. This would include the driveway area and side yard of the residence that can be seen from the street.

- **Vehicles or equipment**: Recreational Vehicles, trailer, boats stored or parked in front yard area including the driveway.
Building Services

- Group homes, residential care facilities, sober living homes are all subject to the California Building Code.

- Permits and Inspections are required for room additions, windows, doors, roofs, ADA improvements etc, same as any other property.

- Neighbor awareness and Homeowners Association approval are required.

- Treated same way as any other property.
Contact Information

Police Non-Emergency: 949-770-6011

Code Enforcement: 949-470-3055

City of Mission Viejo Access MV 24/7

To send an email: cityofmissionviejo.org – go to Quick Links and click on Access MV 24/7. This brings you to the page where you can submit a request.

Building Services: 949-470-3054
California Legislature

Senator Patricia C. Bates
Assemblyman William P. Brough

Sober Living Homes – March 2016 Update

Background
There are real concerns about the presence and proliferation of sober living homes in our communities that lack sufficient oversight and regulation.

Beginning last year, we have engaged in conversations, including a roundtable, with city attorneys, city managers, members of Congress, county supervisors, city council members and others, to consider the issues relating to sober living homes. We recently participated in an event that was hosted by the League of California Cities in Irvine, in which current legal and regulatory issues concerning sober living homes were presented. That event was attended by over 130 people, including federal, state and local officials. We are under no illusions that there is an immediate fix. A key issue remains that people who are recovering from alcoholism or drug addiction are afforded legal privileges by being classified as “disabled” under federal law.

State Legislation
We have both introduced bills that create accountability and oversight for sober living homes. We are also co-authoring bills that other members of the Legislature have introduced. The following are summaries of the bills that we and other members of Legislature have introduced.

Last year, Assemblyman Brough authored Assembly Bill 838, which would require a recovery house that is owned or operated by a community care facility and that functions as an integral component of that community care facility to be licensed and subject to inspection and enforcement.

(continued on next page)
This year, Senator Bates has authored, with Assemblyman Brough as co-author, Senate Bill 1283. While this bill currently establishes licensing for sober living homes, which are termed “adult recovery maintenance facilities” in the bill, we are currently working with lawyers that specialize in sober living home issues to craft an alternative approach for the bill. We are also contemplating amending the bill to mirror legislation that has recently advanced in the Arizona Legislature to grant cities and counties the authority to adopt health and safety standards and enforcement mechanisms for sober living homes.

Three other bills have been introduced this year to address sober living homes:

- **AB 2772 (Chang)**, which we have both co-authored, requires a person who has been ordered or required to participate in a drug treatment program to seek treatment only from an alcoholism and drug abuse recovery or treatment facility that is licensed by the State Department of Health Care Services and that is in compliance with the local laws where the facility is located.

- **AB 2255 (Melendez)**, which we are also both co-authoring, defines “sober living homes,” and establishes that a residence is a sober living home if it has been certified, registered, or approved by a state-recognized nonprofit organization.

- **AB 2403 (Bloom)** requires a sober living home to be licensed when it is tied to a separate facility that provides treatment and other services.

**Additional Resources**

For additional background information on laws relating to sober living homes, please see the reports that can be accessed at the following Internet links.


*Case study of situation in Newport Beach (http://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2007/5-2007-Clauson-Sober-Living-Facilities)*
March 29, 2016

Honorable Pat Bates  
Senator, CA 36  
Capitol Building, Room 4048  
Sacramento, CA 95814

Honorable William Brough  
Assemblymember, CA 73  
Capitol Building, Room 2174  
Sacramento, CA 95814

Re: Support for Legislation to Regulate Sober Living Homes

Dear Senator Bates and Assemblymember Brough,

I would like to express my support for legislation relating to the monitoring, regulation, and restriction of sober living homes in our community.

For the last several years, sober living homes have been appearing in Orange County, specifically in the City of Mission Viejo, at an alarming rate. Some of these homes have been given the distinction of "sober living environments", and as such are not subject to the same rules and guidelines as Community Care Facilities or Alcohol and Drug Treatment Centers. What is especially concerning to me is the inability for local governments to effectively regulate these homes and facilities in their jurisdictions. Current law states that local governments have no authority to standardize the number of these facilities and homes and must treat them the same way as a single family residence.

In many ways, sober living homes have misrepresented the values and expectations we have worked so hard to establish for our community. These homes are often the cause of noise disturbances, parking violations, excessive trash, and secondhand smoke and as such provide a potential threat to the nature of our neighborhood character. While our community supports the concept of sober living homes and appreciates the value they represent to their patients, decisions should be made at the local level as to the amount allowed and permits needed to operate these facilities.

For these reasons, I am happy to serve as a resource as you craft legislation that would help maintain and preserve our community's character.

Sincerely,

CC: Assemblymember Molendoz  
Assemblymember Chang  
Assemblymember Bloom
Background
"Sober living homes” have treated patients for years in the state of California, offering sober living environments and treatment planning in their facilities.

California’s Department of Health Care Services license 24-hour nonmedical abuse treatment facilities that offer detoxification, group sessions, individual sessions, educational sessions, or alcoholism or drug abuse recovery or treatment planning. While they both function in similar ways, there is no licensing process required for sober living homes.

Since there is no universal definition in statute and no regulatory authority that supervises these homes, there is no way to ensure these homes operate effectively.

For years, legislation from both parties has tried to establish a licensing process for sober living homes to ensure abusers are placed in a positive, healthy, and safe environment.

Problem Being Addressed
Recovering addicts can easily relapse if living in high risk environments. Studies conducted by Mayo Clinic show that 80% of alcoholics relapse within their first year of sobriety. Additionally, the National Institute on Drug Abuse conveys that 40 to 60% of drug addicts will relapse from their plan of treatment.

Unregulated sober living homes also have a negative impact on communities. Statistics show that crimes increased 33% in cities because of poorly operated facilities.

Constituents from AD 67 have experienced this impact and have continuously contacted

Assembly Bill 2255
City, county and state officials to respond to this issue.

Which code section is affected?
Adding Section 11834.19 to HSC

Summary
AB 2255 will grant sober living home operators the ability to apply for a state recognized license if the home meets quality standards and regulations. It will create a self-policing system within sober living home facilities, decreasing crimes statewide and ensuring quality treatment for former drug and/or alcohol abusers.

This bill will also define “sober living homes” as a residential property that is operated as a cooperative living arrangement to provide clean and sober environment for persons recovering from alcoholism and/or drug abuse. Once a sober living home has been certified, registered, or approved by a state-recognized nonprofit, they will be able to show that they provide a higher standard of care and standards of living.

Staff Contact
Samantha Henson – 916-319-2067
samantha.henson@asm.ca.gov
March 3, 2016

The Honorable Melissa Melendez
California State Assembly
State Capitol, Room 6031
Sacramento, CA 95814

RE: AB 2255 (Melendez)- SUPPORT

Dear Assemblywoman Melendez,

XXXX supports your legislation, AB 2255, which authorizes state recognized non-profits to license sober living homes.

Sober living homes have no type of minimum standards to meet in the state of California. While many homes properly treat individuals who were addicted to drugs and alcohol, poorly operating sober living homes can increase danger in communities and can cause facility residents to relapse. AB 2255 ensures that individuals recovering from addiction are able to choose an upright facility while also increasing the safety of our local neighborhoods and communities.

Please feel free to contact our office for any questions or concerns.

Sincerely,

Cc: Assemblyman Brough, Principal Co-Author
March 24, 2016

Assemblymember Jim Wood  
Chair, Assembly Committee on Health  
State Capitol Room 6005  
Sacramento, CA 95814

RE: AB 2403 (Bloom) Alcohol and Drug Abuse Recovery or Treatment Facilities - SUPPORT

Dear Assemblymember Wood,

On behalf of the City of XXX, I am writing to express strong support for AB 2403 (Bloom), which helps maintain residential neighborhoods as a therapeutic environment for the social integration of high functioning disabled persons, including recovering alcoholics and addicts.

Residential group home facilities provide valuable rehabilitation and support services in a therapeutic environment, which can benefit both individual patients and the greater community. A rehabilitation facility with six beds in a single-family home is welcome in any neighborhood. It’s good for the community, good for the neighbors and more importantly, good for the patient who is trying to recover.

However, what was not anticipated was that existing laws would be manipulated for the advantage of business owners to garner maximum profits. Business owners have found loopholes within the existing laws and have exploited them for personal gain. The single rehabilitation facility nestled into the fabric of a residential neighborhood has been taken over by companies that have created multi-structure, campus-style facilities within a residentially zoned neighborhood. The overconcentrated campus style facilities are more profitable than standalone facilities and they can drastically change the character of a neighborhood, causing it to become more similar to a hospital zone or busy commercial center. Most importantly, the campus style facilities eliminate a vital benefit to the patient, which is to become part of the fabric of a community.

Under AB 2403 cities and counties would be noticed of State license applications, and the municipality could help recognize overconcentration, which is defined as having two facilities separated by less than 300 feet. This noticing and distancing provision is consistent with current California law for other types of group homes housing other protected classes of disabled people. Specifically, existing state law imposes noticing and 300-foot distancing requirements for every existing licensed group home in California, with the exception of alcohol and drug recovery facilities. AB 2403 would simply provide consistency with all other State licensed group homes to protect existing neighborhoods and protect the therapeutic, nurturing environment that benefits all categories of protected residence recovering in State-licensed group homes.
This bill is consistent with the Fair Housing Act (FHA) and advances state policy favoring residential/social model care facilities for persons with disabilities. Legislative Counsel previously opined that regulations which benefit the protected class do not violate the FHA. The intent of AB 2403 is to promote the interest of the protected class (recovering patient) by preserving the integrity of the therapeutic environment of the residential neighborhoods, a core component of the social model of group homes.

The City of XXX supports AB 2403, and we request your support to help prevent overconcentration of multi-structure facilities in residential neighborhoods in order to maintain the purpose and integrity of neighborhood care programs.

Sincerely,
AB 2403 (Bloom)  
Alcohol and Drug Rehabilitation Facilities  
Fact Sheet

PROBLEM

Alcohol and drug abuse treatment facilities have become prolific in California. These facilities, with capacities of six or fewer persons, often occupy single-family residential homes. However, due to the profit margins within economies of scale, these facilities often expand into neighboring residences. This can create multi-structure, campus-style facilities, even though they are zoned for a single residence. While these facilities play a key role in the communities and the individuals, their expanded scope, capacity, and over-concentration can undermine the goal of using residential neighborhoods as a therapeutic environment for the social integration of high functioning disabled persons, including recovering alcoholics and addicts.

SOLUTION

Assembly Bill 2403 requires the Department of Health Care Services to give notice to cities and counties within their jurisdiction regarding the application process in acquiring licenses for adult recovery or treatment programs for alcoholism and drug abuse. It allows the cities or counties to request denial of the licenses applied for based upon distancing requirements. The purpose is to prevent overconcentration of multi-structure facilities in residential neighborhoods with the aim of maintaining the purpose and integrity of neighborhood care programs.

AB 2403 addresses the problem specifically in three parts:

1) By requiring the Department of Health Care Services to notify a city or county of any application for an adult abuse recovery or treatment facility within its jurisdiction; furthermore, allowing cities or counties to request denial of the license applications for integral facilities due to over-concentration, as defined by a 300 foot distance requirement; and

2) By clarifying that a city or county prevented from applying its zoning laws to rehab facilities due to service of six or fewer persons is an interested party with standing to seek judicial review of licensing decisions by the Department of Health Care Services, and

3) By requiring the Department to issue an integral facility license if statutory criteria are met.

EXISTING LAW

Currently, the California Department of Health Care Services licenses adult drug and alcohol recovery facilities if applicants meet specified requirements. Under existing law, these licenses can be filed under these categories: single-family settings of six or fewer patients operating in a residential unit and an integral facility consisting of multiple structures or programs and serving seven or more patients. Currently, cities and counties are not required to be notified of license applications within their jurisdiction, and these treatment facilities are not subject to distancing requirements, unlike other State licensed group homes.

This notification and distancing policy is consistent with current California law. Currently, existing state law imposes notification and distancing requirements for every existing licensed group-home in California, with exception to alcohol and drug recovery facilities. For example, under the Community Care Facilities Act, licensed group homes are required to be sited at least 300 feet from another licensed community care facility.

SPONSORS

California League of Cities

SUPPORT

City of Malibu

OPPOSITION


Office of Assemblymember Richard Bloom
AB 2403 - Fact Sheet
Contact: Guy Strahl (916) 319-2050
Page 1
AB 2772 (CHANG): DRUG TREATMENT PROGRAMS

Association of California Cities - Orange County

IN BRIEF

This bill would take effect when a judge orders a person to be placed in a residential Alcohol and Other Drug (AOD) treatment facility (also known as a "residential treatment home"). The judge would only be able to approve/send a person to a home that meets compliancy within the city of its location, and with its state licensure agreement. If the home is noncompliant a judge would not be able to continue approving/appointing defendants to that particular home.

AB 2772 would incentivize residential treatment facilities to stay in compliance with cities and the state, and offer a high level of care, which would support a reduction in a defendant's relapse and recidivism.

THE ISSUE

An overwhelming number of California cities face complicated public safety, and quality care issues having to do with residential treatment facilities. The challenges, deriving from noncompliant residential treatment facilities, are a strain on law enforcement resources, the community, and negatively affect the patients seeking treatment. The focus of the noncompliant homes is on the quantity of patients instead of the quality of care.

Cities need support from the State to ensure that their local ordinances are being recognized and are working in conjunction with State regulations when facilities receive their State licensure. Defendants that have been ordered by the state to seek Alcohol or Other Drug treatment should not be permitted to seek treatment from homes that are "bad actors", and are contributing to city turbulence, due to their noncompliance with State and local regulations/ordinances.

EXISTING LAW

The Department of Health Care Services has sole authority to license and investigate facilities providing 24-hour residential nonmedical services to eligible adults who are recovering from problems related to alcohol or other drug misuse or abuse.

Licensure is required when at least one of the following services is provided: detoxification, group sessions, individual sessions, educational sessions, or alcoholism or drug abuse recovery or treatment planning.

Additionally, facilities may be subject to other types of permits, clearances, business taxes or local fees that may be required by the cities or counties in which the facilities are located.¹

THE SOLUTION

AB 2772 will allow judges, who are ordering defendants to be cared for in a residential treatment environment, to choose or approve only the residential treatment facilities that are licensed/certified by the currently existing DHCS list of licensed and certified homes². The intent of this bill is to support high functioning residential treatment facilities, and to ensure that individuals receive the most reliable care from credible and compliant residential treatment facilities.

Defendants who are court appointed to seek AOD treatment by the State should be seeking treatment at compliant State licensed facilities. These facilities offer a standardized, state-approved, level of care and are made eligible for more funding because of their certification and licensing. According to studies, and expert panelist on substance abuse treatment³, individuals providing treatment to parole and probationary populations should meet minimum standards by recognized accrediting authorities. This has been proven to reduce recidivism and increase rehabilitation rates. When the State is using tax-payer dollars to help rehabilitate defendants there should be clear goals for the providers, and the patients who are seeking treatment. Objectives and targets help to ensure patients are receiving quality care to guarantee more successful outcomes.

FOR MORE INFORMATION

Bill Sponsor
Association of California Cities - Orange County
Contact: Diana Coronado
(714) 953-1300
dcoronado@accoc.org

¹ http://www.dhcs.ca.gov/provgovpart/Pages/FacilityLicensing.aspx
³ https://www.library.ca.gov/crb/02/18/02-018.pdf

March 18, 2016
An act to add Chapter 1.6 (commencing with Section 1212) to Title 8 of Part 2 of the Penal Code, relating to drug treatment.
THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 1.6 (commencing with Section 1212) is added to Title 8 of Part 2 of the Penal Code, to read:

**Chapter 1.6. Drug Treatment Programs**

1212. Notwithstanding any other law, a person seeking treatment at an alcoholism and drug abuse recovery or treatment facility, as defined in Section 11834.02 of the Health and Safety Code, because he or she has been ordered or required to participate in a drug treatment program pursuant to this code shall seek treatment from an alcoholism and drug abuse recovery or treatment facility that meets both of the following requirements:

(a) The facility is licensed by the State Department of Health Care Services pursuant to Chapter 7.5 (commencing with Section 11834.01) and is listed on the department’s Internet Web site.

(b) The facility is in compliance with the local laws where the facility is located.

- 0 -
LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, Chang.

General Subject: Drug treatment programs.

Existing law requires certain defendants to participate in a drug treatment program when, among other things, under a deferred entry of judgment program, as a condition of probation, and as a condition of parole.

Existing law prohibits a person, firm, partnership, association, corporation, or local governmental entity from operating, establishing, managing, conducting, or maintaining an alcoholism or drug abuse recovery or treatment facility to provide recovery, treatment, or detoxification services within this state without first obtaining a current valid license from the State Department of Health Care Services.

This bill would require a person seeking treatment at an alcoholism and drug abuse recovery or treatment facility because he or she has been ordered or required to participate in a drug treatment program pursuant to the Penal Code to seek treatment from an alcoholism and drug abuse recovery or treatment facility that is licensed by
the State Department of Health Care Services and in compliance with the local laws where the facility is located.

Date, 2016

The Honorable Ling Chang
California State Senate
State Capitol, Room 3149
Sacramento, CA 95814

RE: AB 2772 (Chang) Drug Treatment Programs – SUPPORT

Dear Assemblymember Chang,

The City of [insert your city name here] would like to express its support for AB 2772 (Chang), a bill that seeks to empower cities’ local ordinances and protect patients seeking alcohol and other drug (AOD) treatment. For too long, patients have been placed into homes with substandard care and a lack of concern for surrounding neighborhoods. This bill allows cities and patients to focus on the best treatment options for their communities by providing them with the resources they need to work with compliant residential treatment facilities.

Residential treatment facilities are used to help house individuals who are overcoming addiction-related health and behavioral issues before reintegrating into more typical living conditions. Unfortunately, because of bad actors in the industry, residential treatment facilities have a long history of difficulties in Orange County. The challenges derived from noncompliant residential treatment facilities are a strain on law enforcement resources, represent legitimate public safety threats to the community, and negatively affect the patients seeking treatment. The residential treatment facilities that are concerned with the quantity of patients, rather than the care of patients, have had a harmful effect on all of the compliant and well-operating facilities, leaving patients with incomplete treatment and local governments to deal with the fall out.

AB 2772 would address many of the concerns surrounding residential treatment facilities by affecting a specific population of people who have been court-ordered to seek residential AOD treatment. Only homes that meet compliancy within the city of their location and are in compliance with their state licensure agreement would be approved for residential treatment care. If the home is noncompliant, a judge would not be able to continue approving or appointing patients to that particular home. This measure would incentivize residential treatment facilities to stay in compliance with cities and the state, as well as offer a state approved, high level of care that would reduce instances of patient relapse and recidivism.

In addition to the issues that cities need to overcome connected to sober living homes, and residential treatment facilities they receive very little help from state or federal agencies due to
oversaturation. In California, the sole oversight and licensing regulator for sober living homes is the Department of Healthcare Services (DHCS), because DHCS has many responsibilities, besides the supervision of sober living homes, there has been a substantial lack of compliance monitoring. If AB 2772 becomes law, this would strengthen monitoring efforts at the local level, enact immediate repercussions for noncompliant homes, and improve the quality of life for communities.

[Insert your city’s experience dealing with sober living homes, and residential treatment facilities here.]

The issues surrounding sober living homes and residential treatment facilities are not unique to Orange County, its residents or those who are seeking treatment – these problems are felt statewide. For this and the reasons described above, the City of [insert your city name here] is proud to support AB 2772.

Sincerely,

Name
Title

cc:

Heather Stratman, CEO, Association of California Cities – Orange County
Assembly Bill 2772 (Chang)
Alcoholism and Drug Abuse
Treatment Facilities

Summary:
AB 2772 alters current law when ordering a defendant to partake in treatment at an alcoholism and drug abuse treatment facility so they may only select a facility that is licensed through the Department of Healthcare Service (DHCS) and is in compliance with any local regulations.

Proposal:
AB 2772 will ensure that those most in need of a second chance through AOD treatment are receiving the highest level of care.

This measure will keep unlicensed and incompliant facilities off of the lists that judges use when ordering someone to be cared for in a sober residential environment.

This bill is not monetarily or criminally punitive, but takes a completely different approach in trying to better protect those assigned to sober living facilities to get the best, most reliable care from credible and compliant Sober Living Facilities. Meanwhile, those facilities that choose not to seek licensure or offer any of the aforementioned services will be able to continue operating but perhaps, be better motivated to seek licensure in the future.

Support:
- ACC-OC (Sponsor, letter forthcoming)

Status:
Introduced 2/19/16

For More Information:
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Office of Assemblywoman Chang, 55th A.D. • AB 2772 Fact Sheet • Page 1 of 1
Updated 02/24/16
Important Contact Information

Police Non-Emergency
949-770-6011

Code Enforcement
949-470-3055
City of Mission Viejo Access MV 24/7   Email: cityofmissionviejo.org. Go to Quick Links and click on Access MV 24/7. This brings you to the page where you can submit a request.

Building Services
949-470-3054

State Websites
California Department of Social Services (DOSS), Community Care Licensing Division (CCLD):  www.ccld.ca.gov
California Department of Health Care Services (DHCS):  www.dhcs.ca.gov

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