April 2, 2019

Honorable Jim Wood  
Chair, Health Committee  
California State Assembly  
Capitol Building, Room 6005  
Sacramento, CA 95814

RE: AB 1779 (Daly) as introduced February 22, 2019 – OPPOSE

Dear Assembly Member Wood:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, regrets to inform you that we respectfully oppose AB 1779. This bill is scheduled for hearing before the Assembly Health Committee on April 9, 2019.

The California Community Care Facilities Act provides for the licensing and regulation of community care facilities, including alcoholism or drug abuse recovery or treatment facilities, by the State Department of Social Services. Current law also provides that a treatment facility that serves six or fewer persons, regardless of their relationship, be considered a residential use of property and excludes the treatment facilities from local zoning ordinances to the extent they are considered anything other than a residential use of property.

By way of background, the six-or-under rule applies to a wide variety of facilities and helps ensure:

1. Integrated community services and residential options for a variety of people with disabilities;
2. Compliance with Fair Housing laws; and

3. That the state is better able to comply with its obligations under the Americans with Disabilities Act and the Olmstead Supreme Court decision to provide services to people with disabilities in the most integrated setting.

This long-standing exemption has served as a cornerstone of these important treatment and housing and civil rights goals in California. AB 1779 veers sharply from these objectives.

The six-or-under rule has long been part of the drug and alcohol treatment continuum of care by ensuring that community-based residential treatment is available in supportive environments. This bill would restrict treatment availability. This bill would also, like similar attempted legislative restrictions, heighten the problem by creating new barriers to opening and keeping open recovery and treatment facilities.

Specifically, AB 1779 would: 1) broadly define recovery residences to include residential cooperative living arrangements; 2) require the Department of Health Care Services (DHCS) to adopt certification standards for operating recovery housing; 3) require recovery residences to maintain the certification standards as well as meet training requirements; 4) require the revocation or denial of any recognition of recovery residence status if there was a previous revocation or denial; 5) permit the reporting of violations of the certification standards; 6) require DHCS to maintain a public website to post the addresses of offending recovery residences; and 7) prohibit referrals by local or state agencies to a recovery residence that is not certified before making a referral to a certified residence. The bill would also allow a local government to “reject a claim by a recovery residence for protection under state and federal disability and housing laws and regulations meant for persons recovering from addiction if the residence is on the DHCS’s revocation list.”

Both the California Fair Employment and Housing Act and the Federal Fair Housing Amendments Act of 1988 prohibit any discrimination against people with disabilities. Under both laws, recovering drug addicts and recovering alcoholics are persons with disabilities protected from discrimination (See the Federal Fair Housing Amendments Act regulations at 24 CFR 100.201). This bill imposes significant restrictions and
regulations on individuals with these disabilities, and people who associate with or are perceived to be individuals with these disabilities, who choose to live together. No such restrictions or regulations are imposed upon similar individuals not living together who do not have these disabilities.

State and Federal Fair Housing laws also prohibit restrictions on housing for persons with disabilities. If the effect of a restriction on housing is to limit the existence of the current housing and the creation of new housing it violates Fair Housing law. The elaboration of services required for certification under this bill serves to impose significant burdens on treatment providers in meeting regulatory certification requirements. Those requirements will limit the actual number of small facilities that may be able to meet the documentary requirements. The expanded requirements would make it almost impossible for small six-or-under treatment facilities to operate and thereby force them to close. The effect is to both eliminate existing homes and stifle the creation of new ones.

Likewise, the Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities by state and local governments, including the programs and services offered by a jurisdiction’s housing development, planning and zoning agencies. The ADA has a broad scope and complements the federal Fair Housing Act in covering certain non-traditional housing, such as treatment programs serving individuals with disabilities.

In addition, it goes without saying, state law cannot prohibit claims under the ADA and the Fair Housing Act as this bill does.

AB 1779 attempts to limit the availability of addiction treatment homes in communities. The public reporting of certification violations and website posting requirements all suggest a NIMBY purpose. This bill is contrary to our state’s interest in mitigating problems related to addiction by having an adverse effect on treatment facilities, and will have a substantial cost on state and local governments.

Protecting the opportunities for persons with disabilities to reside in the least restrictive community residential settings should be held inviolate. Unfortunately, AB 1779 seeks to undo those protections.

Finally, at a time when the housing shortage is so critical, the state should not be injected into efforts at reducing housing units and increasing
homelessness. The myriad of bills that are repeatedly introduced with the purpose of restricting recovery residences and, indeed, driving them out of communities, are shortsighted when housing needs are so critical. Particularly, when policies are focused on narrowing community housing options for persons with disabilities.

For these reasons, DRC opposes this bill. Please contact me if you have any questions about our position or if I can provide any further information.

Very truly yours,

Curtis Child
Legislative Director
Disability Rights California

cc:  Honorable Members, Assembly Health Committee
     Scott Bain, Principal Consultant, Assembly Health Committee
     Honorable Tom Daly, California State Assembly
     Kathleen O’Malley, Chief of Staff, Office of Assembly Member Daly
     Alex Khan, Consultant, Assembly Republican Caucus Committee