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April 18, 2017

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

RE: AB 751 (BROUGH) – OPPOSE

Dear Assembly Member Wood:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, opposes AB 751. This bill is scheduled for hearing in the Assembly Health Committee on April 25, 2017.

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 751 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 restrictions in this legislative session and the past, heighten the problem by creating new barriers to opening and keeping open recovery and treatment facilities.

Specifically, AB 751 would expand the list of nonmedical services to include medication services, counseling and therapy services, meals services, scheduling and appointments services, and planning and tracking services and would require the Department of Health Care Services (DHCS) to adopt regulations for each new nonmedical service. AB 751 also expands DHCS's authority to suspend or revoke licenses for failing to comply with the additional requirements.

These provisions would, in a facially illegal way, limit the number of substance abuse facilities. Chipping away at the six-or-under rule, as this bill does, narrows the opportunities for persons with disabilities to live in community settings.

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 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 29 services required for licensure serve to impose significant burdens on treatment providers to meet regulatory requirements that will limit the actual number of facilities that may be able to meet the documentary requirements. The expanded record keeping 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.

AB 751 is hardly even a veiled attempt to limit the availability of addiction treatment homes in communities. It has a NIMBY purpose, is discriminatory, 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 751 seeks to undo those protections.

For these reasons, we oppose this bill. Please contact me if you have any questions about our position on this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read "Curtis Child". The signature is fluid and cursive, with the first name being more prominent.

Curtis Child
Legislative Director
Disability Rights California

cc: Honorable William Brough, California State Assembly
Brent Finkel, Capitol Director, Office of Assembly Member Brough
Honorable Members, Assembly Health Committee
Paula Villescaz, Principal Consultant, Assembly Health Committee
Judith Babcock, Associate Consultant, Assembly Health Committee