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April 13, 2018

Honorable Ed Hernandez  
Chair, Health Committee  
California State Senate  
Capitol Building, Room 2080  
Sacramento, CA 95814

**RE: SB 1228 (LARA) – OPPOSE**

Dear Senator Hernandez:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **opposes SB 1228**. This bill is scheduled for hearing in the Senate Health Committee on April 18, 2018.

This bill would require the department to establish a program to approve organizations that certify facilities, residences, or dwellings that provide substance use disorder continuum of care, are not licensees, and meet specified requirements, including the brokering of “patients.” We commend the author for seeking to improve the quality of recovery services and prohibit the practice of patient brokering. However, a certification scheme that is used to deprive individuals with alcohol and drug addiction disabilities the opportunity to reside in a residence because of their disability imposes an unlawful restriction protected by both the state and Federal Fair Housing Acts. Additionally, it restricts housing opportunities for individuals seeking to live in supportive environments, and creates an expensive state regulatory scheme to oversee the process. As set forth below, DRC opposes this bill.

The Federal Fair Housing Amendments Act (hereafter “Fair Housing Act”) prohibits discrimination against individuals with disabilities in housing and housing-related activities. The Ninth Circuit has affirmed that sober living homes are protected under the Fair Housing Act. *Pacific Shores Properties LLC v. City of Newport Beach*, 730 F.3d 1142, 1157 (9<sup>th</sup> Cir. 2013). The Fair Housing Act recognizes that community opposition has too often led to state and local restrictions that put burdensome restrictions on persons with disabilities and particularly those that reside in group residences. Local prejudices and fears often motivate discriminatory intent and animus toward those that live in the residences. NIMBY fears have been well documented and are very often the impetus for restrictive regulations. The Fair Housing Act prohibits those practices. SB 1228 steps over that line.

In the *Pacific Shores* case noted above, the Court concluded that the City of Newport Beach’s group home ordinance, although neutral on its face, was intended to eliminate sober living homes:

“Prior to the Ordinance, group homes were classified as single housekeeping units and therefore were able to operate freely in residential zones, subject only to the restrictions that governed other residences. After the Ordinance’s enactment, however, every group home was required to submit a detailed application for a special use permit and/or reasonable accommodation in order to continue operating and to attend public hearings at which those applications were subjected to public comment. Subjecting an entity protected by anti-discrimination laws to a permit or registration requirement, when the requirement is imposed for a discriminatory purpose, has obvious adverse impacts upon that entity, and being forced to submit to such a regime is sufficient to establish injury in a disparate treatment claim. See *Flores v. Pierce*, 617 F.2d 1386, 1391 (9th Cir.1980) (Kennedy, J.), cert. denied, 449 U.S. 875, 101 S.Ct. 218, 66 L.Ed.2d 96 (1980). This would be true even if such permits were granted freely, which is decidedly not the case here.”

*Pac. Shores Properties LLC, v City of Newport Beach* at 1163-11164

(Emphasis added.)

The practical effect of this bill will eliminate housing opportunities for persons with disabilities in the midst of both a treatment and homelessness crisis in this state. The very terms of the certification program evidence how

that will happen. A licensed drug treatment program or an employee of the program is prohibited from referring an individual to a “residence” that is not certified. Thus, residences that are not certified cannot receive referrals and individuals with disabilities who may choose to live in a non-certified residence cannot do so. Those residences that cannot maintain certification would be forced to close their doors. The loss of sober living homes is a tragic result for those in need of an affordable supportive home for maintaining sobriety.

Not only does this bill facilitate discrimination, it also would require the creation of an entire government infrastructure that is unnecessary and costly. There is no need to create an unnecessary program and bureaucracy.

Sober living homes are meant to be a way for people recovering from drug addiction or alcoholism to live in an affordable, sober environment. People who want to live together to maintain their sobriety cannot be subject to regulations that will be intrusive and regularly interfere with their lives.

As a final note, this bill would serve to incite neighborhood opposition directed squarely at the uncertified residences. Those with certifications would be incentivized to focus neighborhood opposition to treatment residences on those residences that lack certifications. This bill is bad policy and exactly the wrong kind of measure when treatment and housing are so desperately needed.

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,

A handwritten signature in black ink, appearing to read "Curtis Child". The signature is fluid and cursive, with the first name "Curtis" and last name "Child" clearly distinguishable.

Curtis Child  
Legislative Director  
Disability Rights California

cc: Honorable Ricardo Lara, California State Senate  
Michael Soller, Communications Director, Office of Ricardo Lara  
Honorable Members, Senate Health Committee  
Reyes Diaz, Principal Consultant, Senate Health Committee