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April 2, 2018

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

RE: SB 992 (HERNANDEZ) – SUPPORT IF AMENDED

Dear Senator Hernandez:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **supports SB 992 if amended**. This bill is scheduled for hearing in the Senate Health Committee on April 11, 2018.

This bill seeks to provide greater oversight of licensed alcoholism or drug treatment facilities by requiring all programs licensed or certified by the department to disclose information to the State Department of Health Care Services (department), including, among other things, ownership of an unlicensed alcohol and drug free residence and their contractual relationships. It would also require a licensee to develop a plan to address when a resident relapses that would include, among other things, discharge and continuing care planning.

We commend the author for seeking greater transparency in drug and alcohol treatment program operations and for recognizing the importance of ensuring resident plans include strategies to treat relapse episodes. These requirements will ensure that individuals in treatment programs are receiving proper care and that owner relationships are clear. DRC supports these efforts and this portion of the bill.

Additionally, this bill creates a scheme for the registration of unlicensed drug and alcohol residences, known as “sober living” residences. We commend the author for seeking ways to ensure protections for residents but, unfortunately, we believe that these efforts conflict with state and federal Fair Housing Acts. Even though the registration is voluntary, by imposing requirements on some sober living residences, the requirements effectively restrict housing opportunities for individuals with disabilities in recovery. For this reason, we are opposed to these types of certification requirements and can support SB 992 if the certification of residences is removed.

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 (9th 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.

The practical effect of this provision in SB 992 will be to eliminate housing opportunities for persons with disabilities in the midst of both a treatment and homelessness crisis in this state. The very terms of this “voluntary” certification program evidence how that will happen.

First, the bill mandates that “voluntary” certifiants, at a minimum, observe and promote a “lifestyle” that is abstinent of illegal and *legal* medications not used in a manner consistent with a valid prescription. Second, it authorizes the department to charge a fee for certification with the amount left to the department. There are no limits on the amount of the fee. Third, the certification program requires that various information be posted in the residences that participate. Fourth, the certification subjects the participants to a “good neighbor policy” to address neighborhood concerns and complaints.

It will take a level of sophistication for small independent residences to

comply with the certification requirements. As a result, they will not. This leaves these residences subject to pressure from neighborhoods and others to register, and vulnerable to being excluded from referrals. We believe this will ultimately lead to fewer sober living residences being available and serve to incite neighborhood opposition directed squarely at the uncertified residences. Those with certifications will be incentivized to focus neighborhood opposition to treatment residences on those residences that lack certifications

Finally, not only does this bill limit housing options, it would also require the creation of an entire state government infrastructure to regulate the certification program that is unnecessary and costly.

Sober living homes are meant to be a way for people recovering from drug addiction or alcoholism to live in a supportive, affordable, sober environment. People who want to live together to maintain their sobriety should not be coerced into regulation of their private residences. The residents of these homes should be treated as any other resident in the neighborhood.

Unfortunately, this provision in the bill seeks to recast as “voluntary” an unlawful attempt to eliminate many sober living residences that serve persons with disabilities from our communities. For that reason, we can support the bill if the certification provisions are removed.

For these reasons, DRC supports this bill if amended. 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 being more prominent.

Curtis Child
Legislative Director
Disability Rights California

cc: Honorable Members, Senate Health Committee
Reyes Diaz, Principal Consultant, Senate Health Committee