



CITY OF HUNTINGTON BEACH

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648-2702

GRACEY VAN DER MARK MAYOR

July 3, 2024

The Honorable Richard Roth
Chair, Senate Health Committee
1021 O Street, Room 3310
Sacramento, CA 95814

RE: AB 2574 (Valencia) Alcoholism or drug abuse recovery or treatment facilities.

Dear Senator Roth,

The City of Huntington Beach is pleased to support AB 2574 (Valencia), which seeks to better regulate recovery residences.

Specifically, AB 2574 would expand reporting requirements for licensed recovery home operators to enhance the Department of Health Care Services' oversight of sober living homes that are operating as an integral part of a licensed drug treatment facility located elsewhere in the community.

Residential recovery housing provides a wide range of benefits to some of California's most vulnerable residents, and it is critical that their needs are prioritized over profits. Compliance with state licensing laws administered through the Department of Health Care Services is essential to safeguarding residents' well-being and maintaining quality care.

There have been cases where a licensed facility provides services to the residents of a sober living home but does not include the sober living home in the facility's licensure. AB 2574 would provide much-needed transparency to ensure that if a recovery residence is operated as a business with a licensed treatment facility, it is regulated like a business, not a residential home.

AB 2574 would document the networks of sober living homes and related businesses in Huntington Beach, provide transparency for compliance with State and local laws, and provide an additional layer of protection to the Huntington Beach community.

This measure would protect residents and hold providers accountable for maintaining high-quality treatment and care. For these reasons, the City of Huntington Beach supports AB 2574.

Sincerely,

Gracey Van Der Mark
Mayor

cc: The Honorable Avelino Valencia
The Honorable Janet Nguyen
The Honorable Diane Dixon

SENATE COMMITTEE ON HEALTH

Senator Richard Roth, Chair

BILL NO: AB 2574
AUTHOR: Valencia
VERSION: April 25, 2024
HEARING DATE: June 12, 2024
CONSULTANT: Reyes Diaz

SUBJECT: Alcoholism or drug abuse recovery or treatment programs and facilities: disclosures

SUMMARY: Revises the requirement in existing law for certain entities to disclose that they own or control, or have a financial interest in, a recovery residence, and any contractual relationship with an entity that regularly provides services to addiction treatment or recovery clients to also include a general partner, director, or officer of the licensee.

Existing law:

- 1) Grants the Department of Health Care Services (DHCS) the sole authority in state government to administer, license, certify, and regulate all substance use disorder (SUD) functions and programs. [HSC §11750, et seq.]
- 2) Requires DHCS to license and regulate residential alcoholism or drug abuse (or substance use disorder [SUD]) recovery or treatment facilities (RTFs). [HSC §11834.02, et seq.]
- 3) Grants DHCS the authority to implement a program certification procedure for alcohol and other drug treatment recovery services and to develop standards and regulations for the alcohol and other drug treatment recovery services describing the minimal level of service quality required of the service providers to qualify for and obtain state certification. [HSC §11830.1]
- 4) Requires all programs certified, or RTFs licensed by DHCS, to disclose ownership or control of, or financial interest in, a recovery residence (RR) and any contractual relationship with an entity that regularly provides professional services or addiction treatment or recovery services to clients of programs certified or RTFs licensed by DHCS, if the entity is not part of the certified program or licensed RTF. [HSC §11833.05]
- 5) Prohibits a DHCS licensed RTF or certified program, and specified individuals associated with or employed by those facilities and programs, from giving or receiving remuneration or anything of value for the referral of a person who is seeking alcoholism or drug abuse recovery and treatment services, as specified. Permits DHCS to investigate allegations of violations and take action, such as revocation of licensure or certification, or assessment of penalties. [HSC §11831.6 and 11831.7]

This bill: Revises the disclosure requirement in 4) above of existing law to require a general partner, director, or officer of the licensee to make those disclosures when they operate, conduct, own, or maintain a certified program or licensed RTF.

FISCAL EFFECT: According to the Assembly Appropriations Committee, this bill results in minor and absorbable costs to DHCS.

PRIOR VOTES:

Assembly Floor:	71 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Health Committee:	16 - 0

COMMENTS:

- 1) *Author's statement.* According to the author, this bill will enhance DHCS's oversight abilities of licensed and certified entities that own or have control of RRs by expanding reporting requirements. While state law requires DHCS to license and/or certify and regulate residential and outpatient facilities that provide treatment services, DHCS does not have oversight of RRs that only provide housing, even though some illegally provide treatment and even medical services. This bill aims to address this gap and provide a greater understanding of the relationships between the treatment facilities under DHCS's purview and RRs that operate within our communities by requiring the disclosure of specified financial relationships.
- 2) *Licensed and certified programs.* RTFs licensed by DHCS, based on what is commonly referred to as the "social model," provide recovery, treatment, or detoxification services. (The Department of Public Health licenses medical model RTFs, known as chemical dependency recovery hospitals.) The services provided by social model RTFs include group and individual counseling, educational sessions, and alcoholism or drug abuse recovery and treatment planning. Social model RTFs are allowed to provide clients first aid and emergency care, and since the passage of AB 848 (Mark Stone, Chapter 744, Statutes of 2015), RTFs can apply to DHCS for an additional license to provide incidental medical services by a licensed physician or other health care practitioner. SB 823 (Hill, Chapter 781, Statutes of 2018) requires DHCS to adopt American Society of Addiction Medicine treatment criteria as the minimum standard of care for licensed RTFs. DHCS is also responsible for certification of a business entity with a physical location in the state, that provides one or more of the following services to clients: treatment, recovery, or detoxification services, or medications for addiction treatment. DHCS also provides program certification for facilities that are licensed by the Department of Social Services that serve adolescents. As part of their licensing and certification functions, DHCS conducts reviews of licensed and certified programs every two years, or as necessary; checks for compliance with statute, regulations, and certification standards to ensure the health and safety of clients; investigates all complaints; and has the authority to suspend or revoke a program's license or certification for a violation of statutes, regulations, and certification standards. DHCS states that they have the sole authority to conduct site visits to their licensed and certified facilities. As compliance reviews require DHCS to review resident or client information and files, which is protected information to ensure confidentiality under Title 42, Code of Federal Regulations, Part 2, any onsite visits by any other entity to ensure licensure or certification compliance could violate these protections.
- 3) *Recovery residences (RRs)/sober living homes (SLHs).* A 2010 report on the National Institutes of Health (NIH) website, "Sober Living Houses for Alcohol and Drug Dependence: 18-month Outcomes," states that SLHs are not formal treatment programs and are not obligated to comply with state or local regulations applicable to treatment. However, NIH does not provide a formal definition of a SLH. The report also mentions that it is difficult to determine how many SLHs there are in California because they are outside of the purview of state licensing authorities. The NIH report cites the protection that the federal FHA affords

SLHs to be located in residentially zoned areas, personal privacy under the Fourth Amendment, and the right of people with disabilities to live together for a shared purpose, such as mutually assisted recovery and maintenance of an abstinent lifestyle.

According to DHCS's website, some types of residences do not provide alcohol and other drug services and therefore do not require licensure by DHCS, including cooperative living arrangements with a commitment or requirement to be free from alcohol and other drugs, sometimes referred to as RRs, SLHs, transitional housing, or alcohol- and drug-free housing. DHCS states that while SLHs are not required to be licensed by DHCS, they may be subject to other types of permits, clearances, business taxes, or local fees, which may be required by the cities or counties in which they are located. If a SLH is providing licensable services to adults, then it must obtain a valid RTF license. Licensable services can include, but are not limited to, detoxification services, group sessions, individual sessions, one-on-one counseling, educational sessions, or recovery, treatment, or discharge planning. If a SLH is providing just one of the mentioned services, then it should be classified as a RTF and must obtain a license from DHCS.

DHCS's Drug Medi-Cal Organized Delivery System waiver allows counties to use recovery SLHs in their continuum of services if they adhere to the following guidelines: do not provide SUD services that would require licensure by DHCS; all residents of an RR are actively engaged in medically necessary recovery support services to be provided off-site; and, each county develops guidelines for contracted RR providers and provide monitoring and oversight.

- 4) *Informational hearing on patient brokering and subsequent legislation.* On January 31, 2018, this Committee held an informational hearing to examine the SUD treatment system with a focus on treatment and services provided in licensed RTFs; insurance coverage; patient referrals; and the state's regulation and oversight of the system, including the inability to impose restrictions on unregulated sober living homes. The hearing provided an overview of issues that had been affecting the state regarding unscrupulous facility operators, and gave an opportunity for state regulators to highlight efforts they have undertaken to combat the exploitation of the SUD system, including CDI's enforcement of unscrupulous sober living home operators that had been unlawfully providing services. The goal of the hearing was to examine the issues and to seek strategies and policies that would prevent unscrupulous individuals from exploiting the various industries that are supposed to help treat those with SUDs; to recognize federal and state protections for those with disabilities, including their housing rights and options for supportive housing at sober living homes; and to ensure that policies are not enacted, either at the local or state level, that will limit the number of recovery or treatment options for those who need them.

The Legislature passed, and Governor Brown signed, a package of bills that aimed to address the emerging issues in the SUD treatment and recovery realm. SB 1228 (Lara, Chapter 792, Statutes of 2018) prohibits facilities that are licensed or certified by DHCS, and anyone associated with them, from gaining financially for referring a person to treatment, also known as "patient brokering." SB 992 (Hernandez, Chapter 784, Statutes of 2018) and AB 3162 (Friedman, Chapter 775, Statutes of 2018) made several changes to licensing statute for RTFs, particularly requiring RTFs and other facilities under DHCS's purview to disclose certain business relationships, including with sober living homes, and requiring all RTF licensed services to be provided within the structures notated on an RTF's license.

5) *Troubling trends in the SUD field.* Various media reports over the years have documented how unscrupulous individuals have found ways to exploit the SUD treatment system. Senate Health Committee staff, at the time around the 2018 informational hearing on patient brokering, had received reports of emerging trends and requested DHCS confirm that some of the issues expressed were in fact occurring in licensed RTFs, including:

- a) Denying individuals admission to RTFs who had valid prescriptions from health care professionals for medications to aid in their recovery;
- b) RTF operators holding various licenses that were found to endanger the health and safety of residents at one RTF continued to operate the other RTFs while DHCS worked to suspend or revoke all of the licenses; and,
- c) RTF licensees who had a license suspended or revoked often reapplied for and subsequently were issued licensure just after only two years.

While the package of SUD bills from 2018 were intended to address these troubling trends, some of the bad actors who claim to be part of the SUD industry, to this day, often operate multiple residences and claim they do not require licensure by DHCS because they do not provide any treatment services, even though often times this is found not to be the case. Media reports, as well as anecdotes from advocates, claim that these are the operators who shuffle clients among their various businesses as a means to skirt licensing laws.

6) *Related legislation.* AB 2081 (Davies) requires entities licensed or certified by the DHCS to include on their websites and intake paperwork a disclosure stating an individual may check DHCS's website to confirm any actions taken against the entity. *AB 2081 is set for hearing on June 12, 2024, in this Committee.*

7) *Prior legislation.* SB 823 (Hill, Chapter 781, Statutes of 2018) requires DHCS to adopt ASAM treatment criteria as the minimum standard of care for licensed RTFs.

SB 992 (Hernandez, Chapter 784, Statute of 2018), among other things, implemented the requirement that DHCS-licensed or certified programs disclose relationships with RRs.

SB 1228 (Lara, Chapter 792, Statutes of 2018) prohibits certain persons, programs, or entities, and persons employed by, or working for, that program, from giving or receiving remuneration or anything of value for the referral of a person who is seeking SUD recovery and treatment services.

AB 3162 (Friedman, Chapter 775, Statutes of 2018) made various changes regarding licensed RTFs including: making initial licenses provisional for one year; requiring services offered by the RTF to be specified on the license and provided within the licensed RTF; and, increasing civil penalties for the violation of licensing law.

AB 848 (Mark Stone, Chapter 744, Statutes of 2015), implemented law that permits RTFs to apply for an additional license to provide incidental medical services by a licensed physician or other health care practitioner to the residents of an RTF.

8) *Support.* The League of California Cities states residential recovery provides a wide range of benefits to some of California's most vulnerable residents, and it is critical that their needs are prioritized over profits. Compliance with state licensing laws administered through DHCS is essential to safeguarding residents' well-being and maintaining quality care. There

have been cases where a licensed RTF provides services to the residents of a sober living home but does not include the sober living home in the facility's licensure. This bill would protect residents and hold providers accountable for maintaining high-quality treatment and care.

SUPPORT AND OPPOSITION:

Support: League of California Cities (sponsor)

Oppose: None received

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