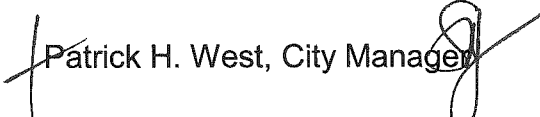


**Date:** April 29, 2013  
**To:** State Legislative Committee Members  
**From:** Patrick H. West, City Manager   
**Subject:** **Review of Sober Living Facilities Past Efforts**

---

Staff have been requested to provide an overview of the City's efforts to address issues regarding Sober Living Facilities. The City's Legislative Agenda has the following language regarding Sober Living Facilities:

**Drug and Alcohol Recovery Facilities:**

1. Support legislation that provides more local government control on the regulation of drug and alcohol recovery facilities.
2. Support legislation that provides more local government control over the regulation of sober-living homes that rent up to six beds and are not currently required to register for city business licenses, obtain conditional use permits or state licenses.
3. Support legislation to reduce the overconcentration of drug and alcohol recovery facilities by specifying that a required distance be maintained between facilities.

Long Beach has a long history of supporting legislation to prevent overconcentration, to require noticing, to create a state definition of what constitutes a sober living facility, and to create an incentive program to steer State dollars to facilities that are good actors. Unfortunately, all of the efforts supported by the cities have either been blocked in the State Legislature or vetoed by the Governor. Attached are resource documents from previous years that provide additional information on the City's efforts. Since 2010 there have been fewer efforts on the Statewide level to address sober living facilities given the inability to achieve progress in prior years.

If you have questions or comments, please contact Tom Modica, Director of Government Affairs and Strategic Initiatives at (562) 570-5091.

cc: Mayor and Members of the City Council  
Robert Shannon, City Attorney  
Suzanne Frick, Assistant City Manager  
Reginald Harrison, Deputy City Manager  
Amy Bodek, Director of Development Services  
Tom Modica, Director of Government Affairs and Strategic Initiatives  
Jyl Marden, Assistant to the City Manager  
Mike Arnold and Associates

## Attachments




1. City Council Item on Sober Living Facilities from November 2007
2. Overview of Sober Living Home Efforts from June 2009
3. Memo on Sober Living Homes from July 2008
4. Committee Analysis of AB 724 (2007) on the issues surrounding sober living facilities

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LONG BEACH, CA  
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**Date:** November 13, 2007

**To:** Honorable Mayor and City Council

**From:** Councilmember Patrick O'Donnell, Fourth District   
Vice Mayor Bonnie Lowenthal, First District   
Councilmember Rae Gabelich, Eighth District 

**Subject:** Sober-Living Home Review

---

Sober-living homes are unlicensed and "substance-free" homes that can be inhabited by up to six residents. These homes, or "six-packs", do not provide healthcare, social services or treat substance abuse. Governed by Federal and State law, cities cannot currently require municipal business licenses, conditional use permits or formal notifications for sober-living homes. The exact number of sober-living homes in the City of Long Beach is unknown.

While many homes may be well-managed and helpful in the recovery process, over-saturation of homes has caused issues that directly affect neighbors and quality of life. These issues include: added density, code enforcement, public safety and calls for service, parking impacts and lack of social services to provide for the diverse needs of the sober-living community. The City's lack of legal ability to control the process and provide notification contributes to these issues.

In the interest of preserving quality of life, particularly in our most dense neighborhoods, and curbing negative impacts to our community, a review of state law and its effect on local control is necessary. This review should include an overview of the City's efforts in lobbying for local oversight of sober-living homes as well a report on related issues with regard to public safety, health, code enforcement and quality of life. The Housing and Neighborhoods Committee has been reviewing these issues, however, since state law governs current regulations, it would be appropriate to also refer discussion to the State Legislation Committee. Since there is not currently a process for referral between policy committees, it is appropriate that Council take action to refer this matter to the State Legislation Committee.

**Recommendation: Request City Manager to refer discussion of sober-living homes or "six-packs" to the State Legislation Committee. Discussion should include, but not be limited to, current state laws, City lobbying efforts, and public safety, health, and code enforcement issues involved with these facilities, and recommendations to further protect our neighborhoods.**

# SOBER LIVING HOMES

*June 12, 2009*

## **The Problem**

- ★ Long Beach like many other cities across California, suffers from an over-concentration of sober living facilities.
- ★ Existing law requires sober living facilities with six or fewer persons to be regarded as a residential use, and must be treated no differently than other residential uses.
- ★ Under current state law, local governments lack the authority to monitor, regulate and enforce residency requirements at these facilities, and must treat them as we would any other residential property.
- ★ While many homes may be well managed and helpful in the recovery process, the over-saturation of sober living homes has negatively impacted the quality of life of numerous Long Beach residents.
- ★ Without State legislation, there is little Long Beach can do as a city to regulate Sober Living Facilities, beyond the code enforcement powers we have for any normal residential property.

## **Long Beach's Efforts**

- ★ Long Beach has supported State legislative over the past several years to either grant cities more authority over placement of these facilities, or allow the State more authority to license these facilities.
- ★ Nearly all our efforts have been thwarted in the State Legislature or by the Governor.
- ★ These failed bills included:
  - Bills to require City notification when the State approves a license for a treatment facility, so we can help identify where the licensed facilities are located.
  - Bills to require a separation barrier of at least 300 feet between sober living facilities, to prevent over-concentration.
  - Bills to define exactly what a sober living home is and is not.
  - Bills to create a volunteer State licensing process for "good-actor" sober living Homes, which would require public agencies to refer clients only to homes with this state license.
- ★ Attached is a list of just a few of the bills Long Beach has supported over the past several years.

## ***2009-2010 State Legislation***

### **AB 1284 (Huffman): Substance Abuse: Adult Recovery Maintenance Facilities**

This bill would require the Department of Alcohol and Drug Programs (DADP) to notify a county or city-planning agency when the approval of a license would result in one owner operating multiple adult recovery maintenance facilities within 300 feet of each other.

Specifically, this bill:

- ✓ Allows a county or city agency 30 days to provide DADP with any objections to the issuance of a license.
- ✓ Allows DADP, after 30 days, to issue the license without conditions, impose requirements for health and safety of the residents as a condition of licensure, or deny the license.
- ✓ Allows a county or city agency to appeal the issuance of a license within 30 days and requires DADP to reconsider the objections if demonstrated that DADP did not adequately address the lawful objections that were raised.

***Long Beach Position: Support***

***Status: Held as a two-year bill***

## ***2007-2008 State Legislation***

### **SB 992 (Wiggins): Substance Abuse: Adult Recovery Maintenance Facilities**

This bill would require the Department of Alcohol and Drug Programs to license and regulate Adult Recovery Maintenance Facilities (ARMFs), and it would apply existing alcohol and drug abuse recovery or treatment facilities licensure requirements to ARMFs.

Specifically, this bill:

- ✓ Provides an ability to license structured Adult Recovery Maintenance Facilities, for those facilities who wish to be licensed.
- ✓ Would provide an incentive for "good actors" by allowing referrals from local and state agencies.
- ✓ Requires DADP to license ARMFs (Adult Recovery Maintenance Facilities) and applies existing recovery and treatment facility licensing requirements to ARMFs, including the application process and procedures for dealing with violations.
- ✓ Defines an AMRF as a facility that provides alcohol- or drug-free house whose rules, peer-led groups, staff activities, or other structured operations are directed toward maintenance of sobriety for adults in early recovery from substance abuse.
- ✓ Requires DADP to develop regulations for licensing ARMFs no later than January 1, 2010.

***Long Beach Position: Support***

***Status: Vetoed by the Governor***

**AB 724 (John Benoit – R: Palm Desert):**

This bill defines what constitutes sober living facilities for the purpose of providing operators and local government with a definition of these facilities. (Sponsored by City of Riverside)

Specifically this bill:

- ✓ Requires the passage of SB 992 before this bill goes into effect.
- ✓ For example, a Sober Living Facility must:
  - Ensure everyone is sober and participate in recognized programs like AA.
  - Have a zero-tolerance policy for alcohol/drug use.
  - Provide no on-site services
  - Not violate any sex offender residency requirements
  - Ensure residents do not require medical attention.
  - Any facility that meets the requirements in AB 724 would be exempt from the licensure process developed in SB 992.

***Long Beach Position: Support***

***Status: Passed Assembly but failed passage in Senate Committee***

## ***2005 - 2006 State Legislation***

• **AB 1795 (Rudy Bermudez – D: Norwalk)**

Existing law requires the State to notify the City's Planning and Building Director regarding the licensure of residential care facilities in order to prevent over-concentration. It further authorizes a city or county to request denial of the license on the basis of over-concentration of residential care facilities. This bill would have guaranteed local government notification when permitting residential care facilities.

***Long Beach Position: Support***

***Status: Vetoed by the Governor***



**Date:** July 7, 2008  
**To:** State Legislation Committee Members  
**From:** Patrick H. West, City Manager *PWest*  
**Subject:** **Summary of Pending State Legislation Regarding Sober Living Facilities**

---

The following is an overview of pending state legislation regarding sober living facilities.

**Assembly Bill (AB) 724 (Benoit): Sober Living Homes**

AB 724, as amended on May 23, 2008, would provide a clear definition of a sober living home as a residential property that is operated as a cooperative living arrangement to provide an alcohol- and drug-free environment for those recovering from alcoholism or drug abuse, or both, who seek a living environment in which to remain clean and sober. All residents of the facility would be required to maintain a sober lifestyle, actively participate in legitimate recovery programs, including, but not limited to, outpatient treatment, 12-step recovery, and other recognized programs of recovery, and maintain current records of meeting attendance.

Owners, managers, operators, and residents would be required to observe and promote a zero tolerance policy regarding the consumption or possession of alcohol or controlled substances, except for prescription medications obtained and used under direct medical supervision. They must also ensure that no detoxification, educational counseling, individual or group counseling sessions, and treatment or recovery planning services are provided onsite, and that residents do not require nonmedical care or supervision.

To be classified as a sober living home, the facility must be certified, registered, or approved by a recognized nonprofit organization that provides a credible quality assurance service for applicants or members. Sober living homes would be exempt from any licensing requirements, but would be required to adhere to current sex offender registration laws which limit the number of registered sex offenders able to reside within a single-family dwelling, as well as their ability to locate within certain distances of schools, parks, and other locations where minors may be present.

AB 724 is currently in the Senate Health Committee and missed the June 27, 2008 legislative deadline required for passage out of policy committees.

**Senate Bill (SB) 992 (Wiggins): Substance Abuse: Adult Recovery Maintenance Facilities**

SB 992, as amended on September 5, 2007, would require the State Department of Alcohol and Drug Programs to administer the licensure and regulation of Adult Recovery Maintenance Facilities (ARMFs), and adopt emergency regulations for these facilities regarding the implementation of the fee process for establishing new licenses and providing for their eventual extension. The bill defines an ARMF as any facility, place, or building that provides alcohol- or drug-free housing whose rules, peer-led groups, staff activities, or other structured operations are directed primarily toward maintenance of sobriety for adults in early recovery from substance abuse or adults who recently have completed alcoholism or drug abuse recovery or treatment services.

An ARMF would be designed to promote independent living in a supervised setting, but would not provide professional recovery and treatment services onsite. The facility would, however, be required to provide at least one of the following services: aftercare; referral to community resources; referral to offsite certified alcoholism or other drug recovery or treatment services when required; or participation in self-help groups on or off premises. An ARMF would not include an unstructured living arrangement that requires residents to abstain from using alcohol or drugs.

Licenses for these facilities would be issued for two-year periods and the department would conduct onsite program visits for compliance at least once every licensing period. On and after January 1, 2010, no state or local social services, law enforcement, corrections agency, court, probation officer, or parole officer would be allowed to refer any person to an ARMF that is not licensed.

SB 992 provides that ARMF's that serve "six or fewer persons" are to be considered a residential use of property and therefore, would not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other single-family dwellings are not also subject. They would also be exempt from any local ordinances that would seek to include them in property definitions that would treat them as businesses run for profit, and not as single-family dwellings.

On September 10, 2007, SB 992 failed passage on the Assembly floor with a 23-29 vote. The bill was granted reconsideration, but has since been placed on the Assembly's inactive file. The bill has until the end of this legislative session (August 31, 2008) to be passed by the Assembly. If the bill fails to meet this deadline, it would need to be reintroduced as a new bill during the 2008-2009 session of the Legislature, and work its way through the legislative process.



July 7, 2008  
State Legislation Committee Members  
Page 3

Attached are copies of the previous letters submitted by the City in support of AB 724 and SB 992. For more information, please contact Tom Modica, Manager of Government Affairs, at 8-5091.

cc: Mayor and Members of the City Council  
Suzanne Frick, Assistant City Manager  
Reginald Harrison, Deputy City Manager  
Dennis Thys, Community Development Director  
Tom Modica, Manager of Government Affairs  
Jyl Marden, City Council Liaison  
Mike Arnold and Associates

Attachment  
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**City of Long Beach**  
Working Together to Serve

**Memorandum**

**Date:** June 29, 2007  
**To:** State Legislation Committee Members  
**From:** Gerald R. Miller, City Manager *grm*  
**Subject:** Support of AB 724: Sober Living Homes

---

Attached for your information is a letter addressed to the Assembly Member John Benoit in support of AB 724, which would create definition for Sober Living Homes. This bill would provide local governments with the tool they need to distinguish between a legitimate sober living home and an illegitimate one.

For more information, please contact Tom Modica, Manager of Government Affairs, at 8-5091.

cc: Mayor and Members of the City Council  
Christine Shippey, Assistant City Manager  
Reginald Harrison, Deputy City Manager  
Curtis Tani, Acting Deputy City Manager  
Pat West, Director of Community Development  
Suzanne Frick, Director of Planning and Building  
Mike Mais, Assistant City Attorney  
Tom Modica, Manager of Government Affairs  
Jyl Marden, City Council Liaison  
Mike Arnold and Associates

Attachment  
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## MAYOR BOB FOSTER

CITY OF LONG BEACH

June 26, 2007

The Honorable John Benoit  
State Capitol Building, Room 4081  
Sacramento, California 95814

**RE: Support of AB 724: Sober living homes.**

Dear Assembly Member Benoit:

On behalf of the City of Long Beach, I am writing to express our support of AB 724, which would create definition for Sober Living Homes.

Existing law also provides for the licensure and regulation by the Department of Alcohol and Drug programs of alcoholism and drug abuse recovery and treatment facilities for adults. AB 724 would create a definition of "sober living home" in order to clarify a local government's authority to regulate the use and occupancy of a single-family residence location in a single family residential zone that is not a sober living home or other licensed facility.

AB 724 would provide local governments with the tool they need to distinguish between a legitimate sober living home and an illegitimate one. Often times, owners or operators will falsely claim to be operating a sober living home to avoid local regulation. Most of these properties present substandard conditions and can thereby avoid local regulation by claiming to be a sober living home. This bill will place a valid definition for the term sober living home which local governments can rely on to determine the scope of local regulation applicable to use.

For these reasons, the City of Long Beach supports AB 724, and we look forward to working with you to ensure its passage.

Sincerely,

Mayor Bob Foster  
City of Long Beach

CC: The Honorable Edward Vincent, State Senate, 25<sup>th</sup> District  
The Honorable Alan Lowenthal, State Senate, 27<sup>th</sup> District  
The Honorable Jenny Oropeza, State Senate, 28<sup>th</sup> District  
The Honorable Mervyn Dymally, State Assembly, 52<sup>nd</sup> District  
The Honorable Betty Karnette, State Assembly, 54<sup>th</sup> District  
The Honorable Laura Richardson, State Assembly, 55<sup>th</sup> District  
League of California Cities

333 WEST OCEAN BOULEVARD, LONG BEACH, CALIFORNIA 90802  
TELEPHONE 562-570-6801 FAX 562-570-6538 MAYOR@LONGBEACH.GOV





**City of Long Beach**  
Working Together to Serve

**Memorandum**

**Date:** June 29, 2007  
**To:** State Legislation Committee Members  
**From:** Gerald R. Miller, City Manager *GRM*  
**Subject:** Support of SB 992 Substance Abuse: Adult Recovery Maintenance Facilities

Attached for your information is a letter addressed to Senator Patricia Wiggins in support of SB 992, relating to the licensure of Adult Recovery Maintenance Facilities. SB 992 would create a new definition of alcohol and drug recovery facilities known as "Adult Maintenance Recovery Facilities" (ARMRs) to be licensed by the Department of Alcohol and Drug Programs (ADP).

For more information, please contact Tom Modica, Manager of Government Affairs, at 8-5091.

cc: Mayor and Members of the City Council  
Christine Shippey, Assistant City Manager  
Reginald Harrison, Deputy City Manager  
Curtis Tani, Acting Deputy City Manager  
Pat West, Director of Community Development  
Suzanne Frick, Director of Planning and Building  
Mike Mais, Assistant City Attorney  
Tom Modica, Manager of Government Affairs  
Jyl Marden, City Council Liaison  
Mike Arnold and Associates

Attachment  
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## MAYOR BOB FOSTER

CITY OF LONG BEACH

June 26, 2007

The Honorable Patricia Wiggins  
State Capitol Building, Room 4081  
Sacramento, California 95814

**RE: Support of SB 992 Substance abuse: adult recovery maintenance facilities.**

Dear Senator Wiggins:

On behalf of the City of Long Beach, I am writing to express our support of SB 992, relating to the licensure of Adult Recovery Maintenance Facilities.

SB 992 would create a new definition of alcohol and drug recovery facilities known as "Adult Maintenance Recovery Facilities" (ARMFs) to be licensed by the Department of Alcohol and Drug Programs (ADP). Under existing law, ADP only licenses "Treatment and Recovery" facilities. SB 992 would apply existing alcohol and drug treatment recovery facility licensure standards to Adult Maintenance Recovery Facilities. This bill would establish the Residential and Outpatient Programs Compliance Branch Licensing and Certification Trust Fund in the State Treasury to be used exclusively to cover administration costs of licensing and certifying the process established by this bill.

SB 992 provides quality assurance and accountability for programs that already exist in the continuum of services available for people who are in the process of recovering from drug or alcohol dependency. Licensing these facilities will provide accountability to ADP for the operation of these facilities and thereby build public trust and confidence in our communities with such facilities.

We look forward to working with you to ensure the passage of SB 992.

Sincerely,

Mayor Bob Foster  
City of Long Beach

CC: The Honorable Edward Vincent, State Senate, 25<sup>th</sup> District  
The Honorable Alan Lowenthal, State Senate, 27<sup>th</sup> District  
The Honorable Jenny Oropeza, State Senate, 28<sup>th</sup> District  
The Honorable Mervyn Dymally, State Assembly, 52<sup>nd</sup> District  
The Honorable Betty Karnette, State Assembly, 54<sup>th</sup> District  
The Honorable Laura Richardson, State Assembly, 55<sup>th</sup> District  
League of California Cities

333 WEST OCEAN BOULEVARD, LONG BEACH, CALIFORNIA 90802  
TELEPHONE 562-570-6801 FAX 562-570-6538 MAYOR@LONGBEACH.GOV



## BILL ANALYSIS

SENATE HEALTH  
COMMITTEE ANALYSIS  
Senator Sheila J . Kuehl, Chair

BILL NO: AB 724  
A  
AUTHOR: Benoit  
B  
AMENDED: May 15, 2007  
HEARING DATE: June 27, 2007  
7  
REFERRAL: Health and Rules  
2  
FISCAL: Appropriations  
4  
CONSULTANT:  
Dunstan/cjt

SUBJECT

Sober living homes

SUMMARY

Provides a definition of a sober living home which is defined as a residential property which is operated as a cooperative living arrangement to provide an alcohol and drug free environment for persons recovering from alcoholism or drug abuse, or both, who seek a living environment in which to remain clean and sober, and which meets other specified requirements.

CHANGES TO EXISTING LAW

Existing law:  
Existing law declares that it is the policy of the state for each city and county to permit and encourage a sufficient number and type of recovery and treatment facilities commensurate with local need. Existing law establishes the State Department of Alcohol and Drug Programs (DADP) and requires DADP to develop and implement a statewide plan to alleviate problems related to inappropriate alcohol and drug use.

Continued---

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STAFF ANALYSIS OF ASSEMBLY BILL 724 (Benoit) Page  
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Existing law requires DADP to license all adult alcoholism or drug abuse recovery or treatment facilities and defines those facilities. Existing law defines a recovery or treatment facility as any premise, place, or building that provides 24-hour residential non-medical services to adults who are recovering from problems related to substance abuse and that at least one of these services are provided: recovery services, treatment services, or detoxification services. Existing law also requires treatment facilities with six or fewer persons to be regarded as a residential use and to be treated no differently than other residential uses.

Existing law prohibits a conditional use permit, zoning variance, or other zoning clearance from being required of a residential treatment facility which serves six or fewer persons that is not required of a family dwelling of the same type in the same zone.

Existing law also requires DADP to certify drug and alcohol recovery treatment services such as outpatient treatment services, which are not subject to licensing.

Existing law requires that when a person is released on parole after having served a term of imprisonment in state prison for any offense for which registration is required, that person may not, during the period of parole, reside in any single family dwelling with any other person also required to register pursuant to existing law, unless those persons are legally related by blood, marriage, or adoption.

Existing law, the California Fair Employment and Housing Act (FEHA), prohibits discrimination against any person in any housing accommodation on the basis of race, color, religion, sex, status, national origin, ancestry, familial status, or disability. Existing law also specifies that discriminatory land use regulations, zoning laws and restrictive covenants are unlawful acts.

Existing federal law prohibits state and local governments from treating housing used by the disabled or family units with six or fewer persons any differently than any other residential use of property.

STAFF ANALYSIS OF ASSEMBLY BILL 724 (Benoit)

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This bill:

This bill states that its purpose is to provide a definition of sober living homes in order to give those purporting to operate these facilities and local code and law enforcement agencies information to determine whether residences housing recovering drug and alcohol abusers are exempt from the exercise of local police powers.

This bill would define a sober living home as a residential property that is operated as a cooperative living arrangement in order to provide an alcohol and drug free environment for persons recovering from alcoholism or drug abuse, or both, who are seeking a living environment in which to remain clean and sober. A sober living home meets the definition when residents, including resident owners, operators, and managers, are living a sober lifestyle; residents actively participate in legitimate programs and maintain records of meeting attendance; a zero tolerance policy towards drugs and alcohol is maintained; no services requiring licensure by DADP are provided; current law regarding registered sex offenders is adhered to for residential areas; residents do not require care or supervision as provided by a licensed care facility; and applicable state and local laws are obeyed.

This bill would also provide that minor dependents may reside in a sober living home and that sober living homes that are certified, registered, or approved by a recognized nonprofit organization providing credible quality assurance services are presumed to meet the definition of a sober living home.

#### FISCAL IMPACT

According to the Assembly Appropriations Committee analysis, there are no significant costs associated with this legislation.

#### BACKGROUND AND DISCUSSION

According to the author, this bill is based on the direct experience of the sponsor, the City of Riverside, which claims illegal uses are being made of single family

STAFF ANALYSIS OF ASSEMBLY BILL 724 (Benoit)

Page

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residential properties where the owners or operators falsely claim to be operating "sober living homes" to avoid local regulation. The author argues that many of these facilities are not providing legitimate services or supervision of the residents, and that many are just housing parolees and other offenders. The author argues that by providing a specific and comprehensive definition of a sober living home, AB 724 will set boundaries for these single family residences and their owners and occupants. The author also points out that the bill would not allow local entities to regulate either state-licensed facilities or sober living homes that meet the definition contained in AB 724.

#### Treatment facilities

According to DADP, a residential treatment facility provides various services, including detoxification, education sessions, and/or recovery or treatment planning. In addition, a licensed facility may also offer individualized services including vocational and employment search training, community volunteer opportunities, new skills training, peer support, social and recreation activities, and information about and referral to appropriate community services.

Sober living homes are residences or congregate living situations providing a supportive living environment to recovering alcohol and drug abusers. Under current law, sober living homes are exempt from DADP licensure and may offer no treatment services. Sober living homes operate on the concept that by surrounding oneself with individuals who are experiencing the same self-help learning process, recovering from one's addiction is much easier. Residents may participate in 12-step meetings or other educational meetings to help maintain their sobriety and pursue other activities, including employment. Residents may be enrolled in outpatient treatment concurrently while living at a sober living home.

DADP reports there have been numerous complaints relating to unlicensed facilities, including sober living homes. DADP specifies that on average, it receives 125 complaints per year. Many of the complaints indicate that unlicensed facilities, including sober living homes, are offering addiction treatment services that only licensed treatment

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STAFF ANALYSIS OF ASSEMBLY BILL 724 (Benoit)

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facilities can provide.

The federal Fair Housing Act protects people with past and current alcohol addiction and past drug addiction. The Americans with Disability Act of 1990 (ADA) additionally gives civil rights protection to individuals with disabilities, similar to that provided to individuals on the basis of race, sex, national origin and religion. Alcohol and drug dependency are covered under the ADA. In particular, protection is provided to those who have successfully completed a drug rehabilitation program, or who are currently enrolled in such programs.

#### Proposition 36

Demand for treatment has increased with the passage in 2000 of Proposition 36 or the Substance Abuse and Crime Prevention Act of 2000 (SACPA). Proposition 36 requires probation and drug treatment instead of incarceration for individuals convicted of possession, use, transportation for personal use, or being under the influence of controlled substances and similar parole violations, but



not pertaining to the sale or manufacture of drugs. Under the act, eligible offenders receive up to one year of drug treatment and six months of maintenance care.

Related legislation

SB 530 (Dutton) would prohibit DADP from licensing a treatment facility if another facility was located within 300 feet. Held in Senate Health Committee.

SB 992 (Wiggins) would require DADP to license adult recovery maintenance facilities, which provide a more structured environment for recovery from substance abuse than a sober living home. The bill is at the Assembly desk.

SB 1000 (Harman) would require DADP to license adult recovery maintenance facilities and registration of sober living homes. Held in Senate Health Committee.

Prior legislation

AB 3007 of 2006 (Emmerson) would have prohibited DADP from licensing a facility if another facility was located within 300 feet. This bill was held on the Assembly Appropriations suspense file.

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STAFF ANALYSIS OF ASSEMBLY BILL 724 (Benoit) Page  
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SB 987 (Karnette, 2000) would have required DADP to license and regulate adult recovery maintenance facilities, as specified. This measure died in the Assembly.

SB 986 (Karnette, 1999) would have required DADP to license and regulate adult recovery maintenance facilities. This measure was vetoed by the Governor.

SB 1540 (Karnette, 1998) would have required state licensure of adult recovery maintenance facilities or sober living homes and also would have required development of plans regarding community care facilities. This measure was vetoed by the Governor.

Arguments in support

Supporters argue that this bill will provide legitimate sober living home operators the type of residential environment needed to help those recovering from addiction to alcohol and/or other drugs. At the same time, supporters argue this bill will assist local governments in responding to concerns raised by their constituents about residences purporting to be a part of the addiction recovery field but which are, in some instances, operated without respect for their neighbors and without any semblance of sober living. Supporters argue that this bill will be a valuable tool to regulate the use and occupancy of a single-family residence when the use is not a sober living home or other licensed facility.

Arguments in opposition

Opponents argue that federal and state fair housing laws bar discrimination in housing. In particular, they bar government from enacting barriers that impact only certain populations but not all members of the public. The Western Center on Law and Poverty (WCLP) opposes AB 724 because it would significantly reduce the availability of housing opportunities for those suffering from alcohol and substance abuse. They argue that AB 724 would create a major exception to fair housing laws and would allow local governments to harass sober living facilities. WCLP notes that it is long settled by the U. S. Supreme Court that any group of six or less unrelated individuals living together are considered a family for the purpose of the fair housing law and may not be subject to discrimination. They also

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point out that nothing in fair housing law prevents a local jurisdiction from enforcing health and safety codes or criminal laws so long as they are enforced equally for all residential housing. WCLP argues that AB 724 should be rejected because it allows a local government to single out a specific type of family housing for special scrutiny. WCLP notes that the key question about AB 724 is who will determine if a facility meets the definition in the bill. AB 724 is silent on the subject but apparently this determination would be made by the local government. They argue that because the determination of whether a sober living facility meets the standard lies solely with the local government, only a court determination that the agency acted arbitrarily and capriciously would prevent abuse of the power. In the meantime, desperately needed housing for those with substance abuse would be denied.

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COMMENTS AND QUESTIONS

1. Sober living homes are a part of the variety of treatment facilities, services and homes that are necessary for successful substance abuse treatment. Existing state policy acknowledges the need for different types and varieties of treatment and services. Treatment for substance abuse is similar to treatment for any other chronic medical condition, in that, as with any chronic condition, treatment requires care over a sustained period and a sustained lifelong commitment on the part of those who are afflicted. Substance abuse, along with other chronic diseases such as hypertension and diabetes, can be successfully treated and with similar success rates, but success requires a variety of interventions and care. In the case of substance abuse, successful treatment and recovery requires facilities that offer differing levels of care and treatment, including licensed treatment facilities, recovery maintenance facilities, and sober living homes, which provide a continuum of care and are all elements in the success of treatment.

2. This bill is an attempt to determine the circumstances under which local governments can use their police powers. Federal law and court decisions prohibit discrimination against the disabled. Those recovering from substance abuse are included under this protection. According to an

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opinion by Legislative Counsel, the federal Fair Housing Amendments Act precludes the state from treating facilities with six or fewer residents differently than any other residential use.

Given these protections, there is a strong limit in both state and federal law as to how state and local governments could respond to sober living homes as set forth by this bill. Facilities larger than six residents could most likely be subject to local land use regulation. For homes that house six or fewer residents, state and local governments face a number of restrictions.

If a local government were to use its police powers, such as code enforcement, against a sober living home which had six or fewer residents, and treated them differently, even outside of the definitions set forth in the bill. The action could run afoul of state and federal law. The vague terms set out in the bill could open the door to unreasonable restrictions specifically placed on sober living homes, which could be seen as a violation of equal treatment, as well as the rights of the disabled.

This bill then can be seen as an attempt by the state to try and better define a multitude of state and federal protections for the disabled, as it relates to those recovering from substance abuse. Ultimately, a court could disagree with the definition provided in the bill as sober living homes would continue to enjoy the protections from state and federal law. The limits on local government exercise of its police powers would ultimately be set by federal law and federal and state court decisions. However, these are protections that do not come easily or cheaply for any given sober living home locked in a conflict with local governments.

3. Double referral to be considered. If this bill passes out of Health Committee, the do pass motion needs to send the bill back to Rules for consideration of the request from Public Safety Committee to hear the bill.

PRIOR ACTIONS

\_\_\_\_\_ Assembly Floor: 73-1

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STAFF ANALYSIS OF ASSEMBLY BILL 724 (Benoit) Page  
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Assembly Appropriations:15-0  
Assembly Health: 10-4

POSITIONS

Support: City of Riverside (sponsor)  
California Association of Addiction Recovery

Resources

City of Costa Mesa  
City of Lakewood  
City of Moreno Valley  
City of Palm Desert  
City of Rancho Mirage  
City of Sacramento  
City of Whittier  
League of California Cities  
Palm Desert Chamber of Commerce  
Riverside County Sober Living Coalition  
Sober Living Network

Oppose: California Association of Alcohol and Drug Program  
Executives  
Western Center on Law and Poverty

-- END --