

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON HEALTH
Mia Bonta, Chair
AB 2893 (Ward) – As Amended April 17, 2024

SUBJECT: The Shared Recovery Housing Residency Program.

SUMMARY: Requires the Department of Health Care Services (DHCS) to establish a certification process for recovery homes and adds a standard for recovery homes that meets the state's Housing First requirements. Specifically, **this bill:**

- 1) Requires DHCS to oversee certification of recovery houses by establishing a criteria for the certification of recovery housing conditions under which a recovery home may be certified and regain certification.
- 2) Defines “recovery house” as a residence that serves individuals experiencing, or who are at risk of experiencing, homelessness or who are experiencing serious mental illness or substance use disorders (SUDs) and that does all of the following:
 - a) Satisfies the core components of Housing First pursuant to existing law;
 - b) Uses substance use-specific services, peer support, and physical design features supporting individuals and families on a path to recovery from addiction; and,
 - c) Emphasizes abstinence.
- 3) Authorizes DHCS to charge a fee of not more than \$1,000 for certifying recovery houses.
- 4) Establishes the Shared Recovery Housing Residency Program Fund to receive all funds collected for certifying recovery housing.
- 5) Authorizes recovery houses that are certified by DHCS to receive referrals from DHCS, its agencies, or contractors as housing available for persons experiencing or at risk of experiencing homelessness or who are experiencing serious mental illness or SUDs.
- 6) Prohibits recovery housing from providing services on-site, including, but not limited to, incidental medical services, as defined.
- 7) Adds provisions regarding recovery housing to existing law governing Housing First, including the following:
 - a) Allows state departments and agencies to fund recovery housing that use substance use-specific services, peer support, and physical design features supporting individuals and families on a path to recovery from addiction that emphasizes abstinence so long as the state program meets all of the following requirements:
 - i) The state program uses at least 75% of the funds for housing or housing-based services using a harm reduction model;

- ii) Requires the state program to require an application for funding, and in the submission of an application for funding, to demonstrate engagement with people with lived experience of homelessness and substance use that informs the local decision to seek funding for recovery housing options. Requires an applicant to include minutes or notes of at least two meetings between the applicant and a new or existing body of people with lived experience of homelessness and substance use in order to demonstrate engagement with people with lived experience of homelessness and substance use; and,
- iii) Requires the state program to require a grantee under the program, prior to awarding subgrants, to confirm that the subgrantee has achieved successful outcomes in promoting housing retention, similar to rates of housing retention as harm reduction programs.
- iv) Requires the state to perform periodic monitoring of select recovery housing programs to ensure that the recovery housing complies with the following:
 - (1) An individual or family is offered options and chooses recovery housing over housing offering a harm-reduction approach;
 - (2) The recovery housing otherwise complies with all other components of Housing First, in existing law, including low-barrier to entry;
 - (3) Participation in a program is self-initiated;
 - (4) Core components emphasize long-term housing stability and minimize returns to homelessness;
 - (5) Policies and operations ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint, as well as continuous, uninterrupted access to housing;
 - (6) Holistic services and peer-based recovery supports are available to all program participants along with services that align with participants' choice and prioritization of personal goals of sustained recovery and abstinence from substance use;
 - (7) The housing abides by local and state landlord-tenant laws governing grounds for eviction;
 - (8) Relapse is not a cause for eviction from housing and tenants receive relapse support;
 - (9) Eviction from recovery housing shall only occur when a tenant's behavior substantially disrupts or impacts the welfare of the recovery community in which the tenant resides. A tenant may apply to reenter the housing program if expressing a renewed commitment to living in a housing-setting targeted to people in recovery with an abstinence focus; and,

- (10) If a tenant is no longer interested in living in a recovery housing model or the tenant is at risk of eviction, the housing program provides assistance in accessing housing operated with harm-reduction principles that is also permanent housing.
- 8) Defines “Housing first model” as housing that satisfies the core components of Housing First as described in 7) of existing law, below.
- 9) Defines “trauma-informed practices” to mean a trauma-informed approach to care guided by the principles of safety, trustworthiness and transparency, peer support, collaboration and mutuality, empowerment and choice, and culture, historical, and gender issues.

EXISTING LAW:

- 1) Grants DHCS the sole authority in state government to license alcoholism or drug abuse recovery or treatment facilities (RTFs). [Health and Safety Code (HSC) §11834.01]
- 2) Defines “alcoholism or drug abuse RTF” as any, place or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services. [HSC §11834.02]
- 3) Defines a “recovery residence” (RR) as a residential dwelling that provides primary housing for individuals who seek a cooperative living arrangement that supports personal recovery from a SUD and that does not require licensure by DHCS or does not provide licensable services, as specified, including residential dwellings commonly referred to as “sober living homes,” “sober living environments,” or “unlicensed alcohol and drug free residences.” [HSC §11833.05]
- 4) Prohibits any person, firm, partnership, association, corporation, or local governmental entity from operating, establishing, managing, conducting, or maintaining an alcoholism or drug abuse RTF to provide recovery, treatment, or detoxification services without first obtaining a current valid license from DHCS. [HSC §11834.30]
- 5) Establishes the California Interagency Council on Homelessness with the purpose of coordinating the state’s response to homelessness by utilizing Housing First practices. [Welfare and Institutions Code Section (WIC) §8255]
- 6) Requires agencies and departments administering state programs created on or after July 1, 2017 to incorporate the core components of Housing First. [WIC §8255]
- 7) Defines “Housing First” to mean the evidence-based model that uses housing as a tool, rather than a reward, for recovery and that centers on providing or connecting homeless people to permanent housing as quickly as possible. Housing First providers offer services as needed and requested on a voluntary basis and that do not make housing contingent on participation in services. [WIC §8255]
- 8) Defines, among other things, the “core components of Housing First” to mean:
- Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness;

- b) Supportive services that emphasize engagement and problem-solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals;
 - c) Participation in services or program compliance is not a condition of permanent housing tenancy;
 - d) Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in existing law; and,
 - e) The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction. [WIC §8255]
- 9) Prohibits, under the Fair Employment and Housing Act, discrimination against any person in any housing accommodation on the basis of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability. Specifies that discriminatory land use regulations, zoning laws, and restrictive covenants are unlawful acts. [GOV §12900 et seq.]

FISCAL EFFECT: Unknown. This bill has not yet been analyzed by a fiscal committee.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, this bill would direct DHCS to create a statewide certification program for recovery houses that would be in compliance with housing first policies under the federal Department of Housing and Urban Development definition. The author continues that this bill would instruct DHCS to create a certification program for these homes at a state level to standardize their care as well as reign in bad actors. The author concludes that this is a working model that the state can use housing funds to solve its acute homelessness and addiction crisis.
- 2) **BACKGROUND.**
 - a) **Prevalence of SUD in California.** A 2022 publication from the California Health Care Foundation, entitled “Substance Use in California: Prevalence and Treatment,” reported that substance use in California is widespread with over half of Californians over age 12 reporting using alcohol in the past month and 20% reporting using marijuana in the past year. According to the report, 9% of Californians have met the criteria for a SUD within the last year. While the health care system is moving toward acknowledging SUDs as a chronic illness, only about 10% of people with an SUD within the last year received treatment. Overdose deaths from both opioids and psychostimulants (such as amphetamines), are soaring. This issue, compounded by the increased availability of fentanyl, has resulted in a 10-fold increase in fentanyl related deaths between 2015 and 2019. The California Department of Public Health’s Opioid Overdose Dashboard reported 7,385 deaths related to “any” opioid overdose in 2022, with 6,473 (87.7%) of those deaths fentanyl related.
 - b) **Homelessness in California.** Based on the 2023 point in time count, California has the largest homeless population in the nation with 181,399 people experiencing homelessness on any given night. Many of those people (113,660) are unsheltered, meaning they are living outdoors and not in temporary shelters. Nearly half of all unsheltered people in the

country were in California during the 2023 count. The homelessness crisis is driven in part by the lack of affordable rental housing for lower income people. In the current market, 2.2 million extremely low-income and very low-income renter households are competing for 664,000 affordable rental units. Of the six million renter households in the state, 1.7 million are paying more than 50% of their income toward rent. The National Low Income Housing Coalition estimates that the state needs an additional 1.5 million housing units affordable to very-low income Californians.

- c) **Alcohol and Drug Treatment Facility Licensing and Certification.** DHCS has sole authority to license RTFs in the state. Licensure is required when at least one of the following services is provided: detoxification; group sessions; individual sessions; educational sessions; or, alcoholism or other drug abuse recovery or treatment planning. Additionally, facilities may be subject to other types of permits, clearances, business taxes, or local fees that may be required by the cities or counties in which the facilities are located.

As part of their licensing function, DHCS conducts reviews of RTF operations every two years, or as necessary. DHCS's Substance Use Disorder Compliance Division checks for compliance with statute and regulations to ensure the health and safety of RTF residents and investigates all complaints related to RTFs, including deaths, complaints against staff, and allegations of operating without a license. DHCS has the authority to suspend or revoke a license for conduct in the operation of an RTF that is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or to the people of the State of California.

AB 118 (Committee on Budget), Chapter 42, Statutes of 2023, requires other non-residential, outpatient alcohol or other drug programs be certified by DHCS. Certification is required when at least one of the following is provided: outpatient treatment services; recovery services; detoxification; or medications for addiction treatment. DHCS does not license alcohol and drug RRs with six or less beds that don't provide licensable services, known as RRs.

- d) **RRs.** An RR is a residence for people in recovery from substance abuse. It may serve as support for individuals undergoing treatment but it does not provide treatment or care, whether medical or nonmedical. The state laws and licensing requirements that govern treatment and care facilities do not currently include RRs. Therefore, the state does not keep any list of registered RRs, conduct inspections of RRs, or perform any of the other activities associated with licensing facilities. An RR may be completely self-governed or have formal on-site management, but in the latter case, the managers' duties relate to the administration of the house rather than the tenants or their recovery (as in "case management"). The tenants of an RR pay rent and abide by house rules, which always include maintenance of sobriety and participation in a self-help program. Multiple studies have shown the effectiveness of this kind of environment as a support for people transitioning out of drug or alcohol treatment. The effectiveness of sober living as one component of a person's successful recovery program is not controversial. The California Research Bureau estimates that there are at least 12,000 sober living beds in the state to serve an eligible population of between 25,000 and 35,000 individuals. If an RR is providing any licensable services then it must obtain a valid RTF license from DHCS.

DHCS's Drug Medi-Cal-Organized Delivery System waiver permits counties to use RRs in their continuum of services if they adhere to the following guidelines: the RR does 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; each county develops guidelines for contracted RR entities; and, the county provides monitoring and oversight of the RR.

This bill seeks to create a new category of "recovery home" for people who are homeless or at risk of experiencing homelessness or mental health or substance abuse issues. Recovery housing, as currently defined under existing law, is not required to comply with Housing First requirements, although some may do so. This bill would require a "recovery home" to comply with Housing First, which means that although the provider of the housing could emphasize abstinence, an individual would be offered options and would choose recovery housing over housing offering a harm-reduction approach; participation would be self-initiated; relapse is not a cause for eviction from housing and tenants receive relapse support; and policies and operations must ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint, as well as continuous, uninterrupted access to housing.

- e) **Housing First.** Decades of research demonstrate that evidence-based approaches like supportive housing – affordable housing coupled with wrap-around services – resolves homelessness for most individuals. In addition, the state has a policy of Housing First, which is an approach that prioritizes providing permanent housing to people experiencing homelessness, thus ending their homelessness and serving as a platform from which they can pursue personal goals and improve their quality of life. Many state and local programs effectively utilize these evidence-based approaches to address homelessness; however, the number of people falling into homelessness continues to overwhelm the response system and surpasses the affordable housing stock in many communities. These factors lead to persistently high rates of homelessness despite recent state and local investments. Other strategies, such as rental assistance and help with identifying and securing housing (housing navigation) can also help with those individuals who need prevention tools to avoid homelessness.
- f) **Harm Reduction.** According to the National Institutes of Health (NIH) website, harm reduction is a strategy that aims to reduce the harms associated with certain behaviors. When applied to SUDs, harm reduction accepts that a continuing level of drug use (both legal and illegal) in society is inevitable and defines objectives as reducing adverse consequences. It emphasizes the measurement of health, social, and economic outcomes, as opposed to the measurement of drug consumption. Harm reduction has evolved over time, from its initial identification in the 1980s, as an alternative to abstinence-only focused interventions for adults with SUDs. At the time, it was recognized that abstinence was not a realistic goal for those with SUDs. In addition, those individuals who were interested in reducing, but not eliminating, their use were excluded from programs that required abstinence. NIH's website states there is persuasive evidence that harm reduction approaches greatly reduce morbidity and mortality associated with risky health behaviors. For example, areas that have introduced needle-exchange programs have shown mean annual decreases in HIV prevalence compared with those areas that have not introduced needle-exchange programs. Access to and use of methadone maintenance programs are strongly related to decreased mortality, both from natural

causes and overdoses, which suggests that these programs have an impact on overall socio-medical health. The most recent addition to the harm reduction continuum is that of safe consumption spaces, which have been successfully implemented in over 100 sites around the world.

g) Shifting Funding. SB 1380 (Mitchell), Chapter 847, Statutes of 2016 required the state to adopt a Housing First approach and required all state-funded programs to comply with Housing First. Traditional recovery housing does not necessarily conform to Housing First because it is an abstinence-based approach to addressing substance abuse. This bill aims to set new guidelines for how recovery homes could continue to provide an option for abstinence but also comply with Housing First. This bill would allow state programs to use 25% of available funding for homelessness for licensed recovery homes, as defined.

3) SUPPORT. According to the sponsors, SHARE! Collaborative Housing, this bill would establish recovery houses at the end of the continuum of care that do not provide any licensed medical services onsite. The sponsors argue that this definitional bill is crucial to ensure that during these difficult budgetary times, only the most effective programs that have a certified and proven track record should gain access to our strapped state funds.

4) RELATED LEGISLATION.

a) AB 2479 (Haney) adds requirements for recovery housing to Housing First. AB 2479 is currently pending in the Assembly Housing and Community Development Committee.

b) AB 2574 (Valencia) exempts sober living homes (SLHs) from being considered a residential use of property when evidence demonstrates that the SLH is an integral part of a licensed drug treatment facility located elsewhere. AB 2574 is currently pending in the Assembly Health Committee.

c) SB 1438 (Niello) changes the core components of Housing First to allow the eviction of a resident for the use of drugs or alcohol if children are housed in the same location, and include “recovery housing” programs, as specified. SB 1438 is currently pending in the Senate Housing Committee.

d) SB 913 (Umberg) permits a city attorney of a city in which housing units are located or a district attorney, if the units are located in the unincorporated area of the county, to enforce parts of DHCS licensing laws, as specified. Requires DHCS to adopt a process that permits a city or county to conduct announced and/or unannounced site visits to facilities licensed by DHCS and to SLHs/RRs that do not require DHCS licensure. SB 913 is currently pending in the Senate Judiciary Committee.

e) SB 1334 (Newman) defines an RR, for purposes of licensing RTFs, as a residential dwelling that provides primary housing for individuals who seek a cooperative living arrangement that supports personal recovery from a SUD, does not require DHCS licensure, and does not provide licensable services, and clarifies that an unlicensed RR may provide services to its residents, including, but not limited to, dining, housekeeping, security, transportation, and recreation. Exempts RRs from being required to be licensed RTFs if the facility does not offer recovery services, as defined, and would allow residents of an RR to actively participate in recovery services outside of the home.

Requires RRs to be operated as a separate business from a licensed RTF and require RRs to maintain separate agreements with each resident for the housing and services it provides SB 1334 is currently pending in the Senate Health Committee.

- f) SB 1339 (Allen) requires DHCS to establish and provide for the administration of a voluntary certification program for supportive community residences. Defines “supportive community residence” as a residential home serving adults with SUD, a mental health diagnosis, or a dual diagnosis that does not provide licensable services.

5) PREVIOUS LEGISLATION.

- a) AB 1696 (Sanchez) of 2021 would have required any government entity that contracts with a privately owned RR to provide recovery services to require the RR to comply with specified requirements. AB 1696 was vetoed by the Governor.
- b) SB 349 (Umberg), Chapter 15, Statutes of 2022, creates the California Ethical Treatment for Persons with Addiction Act to provide protection for SUD treatment clients and their families. Imposes requirements and proscribed unlawful acts relating to marketing and advertising with respect to treatment provide. Requires treatment providers to adopt a client bill of rights for persons seeking treatment for SUD, and to make the bill of rights available to all-clients and prospective clients; a treatment provider to maintain records of referrals to or from a RR, as specified and, provides that acts made unlawful by the bill be subject to a civil fine of up to \$20,000 per violation.
- c) AB 1158 (Petrie Norris), Chapter 443, Statutes of 2021, requires an RFT licensed by DHCS serving more than six residents to maintain specified insurance coverages, including commercial general liability insurance and employer’s liability insurance. Required a licensee serving six or fewer residents to maintain general liability insurance coverage. Requires any government entity that contract with privately owned RR or RTF serving more than six residents to require the contractors to, at all times, maintain specific insurance coverage.
- d) AB 1098 (Daly) of 2021 would have created the Excellence in Recovery Residence Housing Act. Would have required the Secretary of the California Health and Human Services Agency to develop and publish on the DHCS internet website consensus-based guidelines and nationally recognized standards for counties to use to promote the availability of high-quality RR housing for individuals with a SUD and to dissuade the use of contracting with, or referral to, RRs that do not meet these guidelines and standards. AB 1098 was held on the Assembly Appropriations Committee suspense file.

- 6) **POLICY COMMENTS.** While the effectiveness of sober living as a component of successful recovery is not controversial, RRs have been subject to intense scrutiny by local governments and residents across the state. RRs are an especially important type of housing for persons with disabilities, and are thus afforded protections under the Fair Housing Act (FHA), Americans with Disabilities Act (ADA), and state fair housing laws. In recent years, numerous local governments have amended their zoning ordinances to add discriminatory regulations for RRs. This led the California Department of Housing and Community Development (HCD) to issue an extensive Group Home Technical Advisory (GHTA) providing guidance to local governments on how discriminatory ordinances interact with obligations under state planning and zoning laws to promote more inclusive communities and

affirmatively further fair housing. Even so, RRs and their presence in residential neighborhoods continue to be a focus of fierce debate. This year alone multiple bills targeting RRs have been introduced in direct contradiction of policies and recommendations outlined in HCD's GHTA.

This bill defines a new term in "recovery housing." But beyond meeting the core components of Housing First, it is unclear what the difference is between an RR and a "recovery home." In addition to creating this new term, this bill requires DHCS to certify "recovery homes" and give those preferential referrals and funding.

In the context of a shortage of adequate housing for persons with disabilities, which is a particularly acute problem within California's broader housing crisis and the overlapping SUD epidemic, the Legislature should question if the focus of statewide efforts to support sober living should solely be on this narrow type of "recovery housing." Specifically, the Legislature should consider:

- a) **Should we be creating new terminology?** RR is a term already codified in state statute and is recognized by state and national organizations and entities. At a time when these types of housing are under such scrutiny does it make sense to bring in new definitions and terminology that could increase confusion? Or, are there pathways to formally recognize RRs that also meet higher standards, such as Housing First?
 - b) **Should certification, and the standards, referrals, and funding that come along with it, only be afforded to a narrow subset of housing?** Given the state's extreme shortage of housing and SUD treatment capacity, the goal should be to support and develop as much of this housing as possible. Could we certify as many RRs as possible, ensuring we have ample housing supply that meets statewide standards, and then further recognize those who go beyond the baseline standards?
 - c) **Is Housing First an appropriate model for sober living?** Housing First approaches homelessness by providing permanent, affordable housing as quickly as possible, then providing supportive services to prevent their return to homelessness. This strategy focuses on the idea that individuals experiencing homelessness should be provided shelter and stability before underlying issues can be successfully addressed. Housing First, as defined in state law, explicitly states that "the use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction." The RR model is generally abstinence based, with the focus on an individual's successful recovery from SUD. While advocates for the industry state that residents are not immediately evicted upon usage, there are steps that need to be taken to support an individual to get them back on track for recovery. Even so, these principles are seemingly contradictory and the impacts of substance usage in a residence that is housing multiple people in recovery needs to be thoroughly considered. The Legislature should question if Housing First, as currently defined in state law, is an appropriate principle to apply to housing that is meant to support recovery.
- 7) **DOUBLE REFERRAL.** This bill is double referred; it passed the Assembly Committee on Housing and Community Development with a vote of 7-0 on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Share! Collaborative Housing (sponsor)

Opposition

None on file.

Analysis Prepared by: Riana King / HEALTH / (916) 319-2097