
SENATE COMMITTEE ON HEALTH

Senator Richard Roth, Chair

BILL NO: AB 2893
AUTHOR: Ward, Haney
VERSION: June 20, 2024
HEARING DATE: July 3, 2024
CONSULTANT: Reyes Diaz

SUBJECT: The Supportive Community Residency Program

SUMMARY: Requires the Department of Health Care Services to establish a certification process for supportive community residences (SCRs). Expands Housing First core components to permit state entities to fund SCRs that use substance use-specific services, peer support, and physical design features supporting individuals and families on a path to recovery.

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, including licensing adult alcoholism or drug abuse recovery or treatment facilities (RTFs). [HSC §11750, et seq. and §11839.3]
- 2) Defines “alcoholism or drug abuse recovery or treatment facility” or “facility” as any premises, place, or building that provides 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 “recovery residence (RR)” as a residential dwelling that provides primary housing for individuals who seek a cooperative living arrangement that supports personal recovery from an SUD and that does not require DHCS licensure or does not provide RTF licensable services. Permits a RR to include, but not be limited to, residential dwellings commonly referred to as “sober living homes (SLHs),” “sober living environments,” or “unlicensed alcohol and drug free residences.” [HSC §11833.05(f)]
- 4) Requires California agencies and departments administering state programs created on or after July 1, 2017, to collaborate with the California Interagency Council on Homelessness (Cal ICH) to adopt or revise guidelines and regulations to incorporate Housing First (HF) core components, except for the Returning Home Well Program, Specialized Treatment for Optimized Programming Program, and Long-Term Offender Reentry Recovery Program, all of which are administered by the Department of Corrections and Rehabilitation and fund “recovery housing.” Defines “state programs” as those that a state entity funds, implements, or administers to providing housing or housing-based services to people experiencing or are at risk of homelessness. [WIC §8255(a-c and e) and §8257]
- 5) Defines “Housing First (HF)” as the evidence-based model that uses housing as a tool, rather than a reward, for an individual’s recovery, and that centers on providing or connecting homeless people to permanent housing as quickly as possible. HF employs various core components that include such things as engaging tenants in services informed by a harm-reduction philosophy and recognize drug and alcohol use and addiction as a part of tenants’ lives; engage tenants in nonjudgmental communication about drug and alcohol use; and offer

education to avoid risky behaviors and engage tenants in safer practices with connection to evidence-based treatment, if tenants so choose.

[WIC §8255(b and d)]

- 6) Defines “recovery housing” as sober living facilities and programs that provide housing in a recovery-focused and peer-supported community for people recovering from SUD issues. Participation for tenants is voluntary, unless it is ordered by a court or is a condition of release for individuals under the jurisdiction of a county probation department or the Department of Corrections and Rehabilitation. [WIC §8256(c)(3)]

This bill:

Certification of Supportive Community Residences (SCRs)

- 1) Requires DHCS to oversee certification of SCRs and establish criteria for initial certification, conditions that would result in decertification, and the means for regaining certification. Permits DHCS to charge a certification fee that does not exceed \$1,000 for the reasonable cost of administering the program.
- 2) Defines “supportive community residence” as a residence that serves individuals experiencing, or who are at risk of experiencing, homelessness and who have SUDs and that does all of the following:
 - a) Satisfies the core components of HF;
 - b) Uses substance use-specific services, peer support, and physical design features supporting individuals and families on a path to recovery from addiction;
 - c) Emphasizes abstinence; and,
 - d) Offers tenants interim or permanent housing only.
- 3) Establishes, in the State Treasury, the SCR Program Fund into which all fees collected under this program will be deposited and made available to DHCS upon appropriation by the Legislature to support its SCR certification activities.
- 4) Requires DHCS-certified SCRs to be permitted to receive referrals from DHCS, its agencies, or contractors as available housing for persons who are experiencing, or at risk of experiencing, homelessness and who have a SUD.
- 5) Prohibits SCRs from providing any licensable services onsite, including, but not limited to, incidental medical services authorized by DHCS.

Housing First

- 6) Expands HF core components to permit state departments or agencies to allow programs to fund SCRs that use substance use-specific services, peer support, and physical design features supporting individuals and families on a path to recovery from addiction, and emphasizes abstinence and promotes self-determination in the recovery process if the program meets specified requirements, such as:
 - a) It uses at least 90% of funds in each county for housing or housing-based services employing a harm reduction model;
 - b) It demonstrates engagement with those who have experienced homelessness and substance use to inform local decisions to fund SCRs;

- c) The state performs periodic monitoring of select SCRs to ensure it complies with offering at least one harm-reduction housing placement option to an individual or family and they choose a SCR over housing offering a harm-reduction approach;
- d) Holistic services and peer-based recovery supports are available and directly communicated to all program participants;
- e) The housing abides by local and state landlord-tenant laws governing grounds for eviction;
- f) Relapse is not a cause for eviction from housing, and tenants receive relapse support;
- g) Eviction from a SCR only occurs when a tenant’s behavior substantially disrupts or impacts other people where the tenant resides, but has procedures for the tenant to reenter that SCR; and,
- h) The SCR or housing program finds alternative housing for a tenant who is no longer interested in living in that SCR or is at risk of eviction, including permanent housing that uses harm reduction principles at either a partner or other housing program. The SCR is required to continue to house the tenant until they are successfully rehoused.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

- 1) Estimated costs to DHCS of an unknown, but likely significant amount, offset to an unknown extent by certification fee revenue, to establish and oversee a certification process outlined in this bill for SCRs. This bill authorizes DHCS to charge a certification fee of up to \$1,000. DHCS is still developing its estimate and was unable to respond to the committee’s request for fiscal information.
- 2) Cal ICH estimates General Fund costs of \$705,000 in the first year and \$673,000 in the second year for four staff positions to receive reports and periodically monitor select SCRs, report results, and intervene when statute is violated. This cost estimate assumes Cal ICH will be the agency conducting “periodic monitoring” of SCRs, although the bill does not clearly specify the agency that is to conduct the periodic monitoring.

PRIOR VOTES:

Senate Housing Committee:	8 – 2
Assembly Floor:	60 - 0
Assembly Appropriations Committee:	11 - 0
Assembly Health Committee:	14 – 0
Assembly Housing and Community Development Committee:	7 - 0

COMMENTS:

- 1) *Author’s statement.* According to the author, as California continues to navigate the mental health needs of our unhoused population along with the state housing crisis, we have learned these issues are often intertwined. This bill establishes a state certification process for RRs through DHCS. This housing model has proven very successful and pairing it with HF principles that ensure people are placed into housing as an early step so they can have a safe environment to move forward in addressing their issues. This bill standardizes care and requirements for all RRs in California, while also making it available as a tool the state can use to address treating our unhoused population.
- 2) *RRs/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 an 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 Fair Housing Act 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.

- 3) *Drug Medi-Cal Organized Delivery System (DMC-ODS)*. According to DHCS, DMC-ODS provides a continuum of care modeled after the American Society of Addiction Medicine criteria for SUD treatment services, enables more local control and accountability, provides greater administrative oversight, creates utilization controls to improve care and efficient use of resources, implements evidenced-based practices in SUD treatment, and coordinates with other systems of care. This was a first-in-the-nation approach to provide Medi-Cal members with access to the care and system interaction needed in order to achieve sustainable recovery, initially approved as a five-year demonstration project by the federal government in California's 1115 SUD Waiver that required counties to opt into this delivery system. DMC-ODS remains a county opt-in system of care of which 37 of the state's 58 counties have chosen to do, representing about 96% of the state's population. Statutorily required external quality reviews (EQRs) indicate progress towards improving clients' access to treatment, enhancing timeliness to get into treatment, and adding the key elements of quality that benefit clients and DMC-ODS system, all of which were observed and documented across the reviews conducted in fiscal year (FY) 2021-22.

A 2023 EQR report on the DMC-ODS states that though not required as part of the DMC-ODS framework, RRs and transitional housing are a particularly important part of the continuum of care and was an issue in virtually every county reviewed in the EQRs. DMC-ODS permits counties to use RRs as an optional service for beneficiaries in their continuum of care if they adhere to the following guidelines: do not provide SUD services that would require DHCS licensure; all residents of a 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 on their own. However, where available housing is short and costs are higher, housing issues are more acute and may impact the system of care at many levels. Counties fund RRs for clients in treatment through various allowable funding streams like Substance Abuse Prevention and Treatment Block Grant funds, along with some funds from criminal justice reform programs that resulted from

AB 109 (Committee on Budget, Chapter 15, Statutes of 2011) and Proposition 47, passed by voters in 2014. The report contends limited fiscal resources available for RRs are a poor match for the challenges: there are too few buildings available for conversion to RRs, and those that are available are too expensive; there are too few providers to run quality RRs; and there are too many clients who lack stable, secure housing. For the clients who are working to build their recovery in outpatient services, or those transitioning from DHCS-licensed residential care into outpatient and community living, safe and secure housing is critical. For example, COVID-19 related factors along with the current housing and RR crisis have contributed to the declines in intensive outpatient treatment (IOT) utilization, as clients who could otherwise function at a level appropriate for IOT can only do so with stable housing. Counties have been adding RR slots as they become available, but it is a challenging work in progress.

- 4) *Double referral.* This bill was heard in the Senate Housing Committee on June 18, 2024, and passed with an 8-2 vote.
- 5) *Related legislation.* SB 1339 (Allen) requires DHCS, by January 1, 2027, to establish a voluntary certification program for SCRs using HF core components. SB 1339 requires a referring entity to provide information to individuals related to the license or certification status of a step-down care facility covered by their health insurance. *SB 1339 was not heard in the Assembly Health Committee.*

AB 2479 (Haney) was substantially similar to this bill in its HF provisions, but did not include the provision requiring DHCS to certify SCRs. *AB 2479 is not being scheduled for hearing in the Senate Housing Committee and instead its author was added as a lead author to this bill.*

AB 2995 (Jackson) replaces outdated and stigmatizing terminology from existing law in relation to SUDs with updated, person-centered terms. *AB 2995 is pending on the Senate Floor.*

- 6) *Prior legislation.* AB 1098 (Daly of 2021) would have required the Secretary of California Health and Human Services to develop and publish on DHCS's website consensus-based guidelines and nationally recognized standards for counties to use to promote the availability of high-quality RRs. *AB 1098 was held on the Assembly Appropriations Committee suspense file.*

AB 1220 (Luz Rivas, Chapter 398, Statutes of 2021) restructured various things about the Homeless Coordinating and Financing Council (HCFC), such as renamed it Cal ICH; removed all required members that are not department or agency heads and placed them on an advisory board that includes Legislative appointees and a person who has experienced homelessness; and, required it to meet regularly with the advisory board and seek its counsel.

SB 992 (Hernandez, Chapter 784, Statutes of 2018) requires programs licensed or certified by DHCS to disclose business relationships with RRs. SB 992 also made changes and improvements in DHCS's licensing requirements for RTFs.

AB 2214 (Rodriguez, Melendez of 2018), AB 285 (Melendez of 2017), AB 2255 (Melendez of 2016), SB 214 (Benoit of 2009), and AB 724 (Benoit of 2007) would have required DHCS to establish a process for certifying RRs wherein DHCS approves organizations to certify the

RRs while also giving DHCS authority to conduct periodic reviews and inspect the records of a certifying organization (CO). *AB 2214, AB 285, and AB 2255 were all held on the Assembly Appropriations Committee suspense file. SB 214 was not heard in this Committee. AB 724 failed passage in this Committee on a 5-4 vote.*

SB 1380 (Mitchell, Chapter 847, Statutes of 2016) established HF in this state and created the HCFC.

SB 1283 (Bates of 2016) would have permitted a city, county, or city and county to adopt by ordinance a registration process, health and safety standards, enforcement mechanisms for structured SLHs. *SB 1283 was not heard in this Committee.*

AB 2491 (Nestande of 2014) and SB 992 (Wiggins of 2008) would have required DHCS to license RRs to be known as adult recovery maintenance facilities. *AB 2491 was held on the Senate Appropriations Committee suspense file. SB 992 was vetoed by Governor Schwarzenegger who stated: while licensure and regulation of SLHs are important to ensure SLHs respect and participate in their local community; for communities to provide support to these facilities; and for individuals seeking recovery from alcohol and drug addiction to live in safe environments that help them in their recovery, this bill did not accomplish these policy goals.*

- 7) *Support.* Supporters, including SHARE! as sponsor, state they are a public-private solution to housing for people with disabilities that uses evidence-based, peer-to-peer practices and self-help support groups. The program builds support, resilience, and independence at a fraction of the cost of other housing programs. SHARE! says they have housed more than 2,200 mental health consumers in Los Angeles and continue to catch those falling through the cracks by accepting everyone who comes through its doors. SHARE! says they have never turned anyone away or asked anyone to leave. This bill would require DHCS to oversee certification of RRs that serve individuals experiencing, or who are at risk of experiencing, homelessness or mental health issues, with a HF model, and would establish RRs at the end of the continuum of care that does not provide any licensed medical services onsite. 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.
- 8) *Opposition.* Advocates for Responsible Treatment (ART) are opposed to the bill, which they state is not implementable regardless of the intentions. ART notes that the language in the bill presents ambiguities in the law, including what category of housing would be funded, in what structures and conditions would tenants live, and what services are provided and by whom. ART also opposes based on this bill not creating expectations for individuals in such housing to either seek or be engaged in recovery.
- 9) *Policy comment.* Other related bills that had been considered this session, including SB 1339 (Allen), which was approved by this Committee, included more categories of facilities that would be certified by DHCS under this bill, such as RRs; recovery housing for those with mental health conditions only that does not require licensure; mixed recovery residences for those with SUD and mental health dual diagnosis; and, abstinence and non-abstinence RRs. Because of the various possibilities, SB 1339 created a blanket term, which was “supportive community residence.” Since the introduction of these bills, the were various categories were amended out, and this bill, which started as serving those who are or are at risk of being

homeless and also have a mental health condition, adopted the term SCR and now specifies that the population would be those who are or are at risk of being homeless and also have an SUD.

Further, this bill creates a definition for SCRs, which ultimately ties to the definition of “recovery housing” in 6) above of existing law. There is a definition of RR in 3) above of existing law that doesn’t mirror the definition in 6) above, but includes the same type of housing. To complicate things further, when the general public and local governments already seem confused about RRs, this bill creates yet a third definition when in reality an SCR would be an RR with the only difference being that they house those who are or are at risk of being homeless.

Lastly, this bill requires DHCS to do the certification for SCRs. Past bills moved from requiring DHCS to perform the functions to requiring DHCS to approve COs to perform certifying functions while giving DHCS authority to inspect COs and their records to ensure compliance with the law. DHCS uses this model for certifying SUD counselors.

To address the concerns outlined above, the author may wish to consider the following amendments, in addition to some technical fixes:

- a) Create a name for RRs that will house those who are or are at risk of being homeless that aligns with the current definitions of RR;
- b) Amend the existing definitions of RRs so that they align with each other;
- c) Require DHCS to approve COs to perform the certification functions; and,
- d) Replace mentions of “addiction” with “SUD,” to align with AB 2995.

SUPPORT AND OPPOSITION:

Support: SHARE! Collaborative Housing (sponsor)
Awakening Recovery
Brentwood Community Council
County Behavioral Health Directors Association of California
Downtown Women's Center
Ibar Special Needs Trust Advisors
Los Angeles Recovery Connect
Safe Place for Youth
Satyagraha Alliance
Five individuals

Oppose: Advocates for Responsible Treatment
California Association of Alcohol and Drug Program Executives, Inc.

-- END --