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**ACCOUNTABILITY AND ADMINISTRATIVE REVIEW**

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INFORMATIONAL HEARING  
Assembly Accountability and Administrative Review Committee

Wednesday, October 30, 2019  
11 a.m. – 2p.m. Costa Mesa City Council Chambers  
77 Fair Drive, Costa Mesa, CA 92626

***Substance Abuse Treatment Industry Regulation***

**Overview**

The U.S. Surgeon General estimates that the costs to society from unaddressed substance abuse and from untreated or inappropriately treated substance abuse disorders exceed \$422 billion annually (including more than \$120 billion in health care costs). As reported by the California Health Care Foundation, nearly three million Californians were diagnosed with a substance use disorder in 2018, but only 10% of these individuals received any type of treatment.

Individuals with histories of substance abuse often lack the internal and external resources needed to help them initiate, stabilize, and sustain long-term recovery. Generally, these individuals face barriers to recovery due to criminal backgrounds; low or no income; poor rental history; poor credit; limited education; and little to no work history. Without the availability of supportive, sobriety-based services, people with addictions are less likely to recover and more likely to face continued challenges, such as higher health care costs from unaddressed substance use; increased use of emergency departments and public health care systems; higher risk for involvement with law enforcement and incarceration; and an inability to obtain and maintain employment.

Despite multiple studies cited by the Surgeon General showing that every dollar spent on substance abuse treatment saves \$4 in health care costs and \$7 in criminal justice costs, these challenges to accessing treatment remain.

**Substance Abuse as a Chronic Illness**

Historically, only individuals with the most severe substance abuse disorders received treatment in addiction treatment programs that were originally designed in the early 1960s to treat

addictions as personality or character, i.e. “social,” disorders. Services for the prevention and treatment of substance abuse have traditionally been delivered separately from other mental health and general health care services. The Surgeon General reports that the separation of substance abuse treatment from mainstream health care has contributed to the lack of understanding of the medical nature of these conditions, lack of awareness among affected individuals that they have a significant health problem, and slow adoption of scientifically supported medical treatments by addiction treatment providers.

According to the American Society of Addiction Medicine, “addiction is characterized by inability to consistently abstain, impairment in behavioral control, cravings, diminished recognition of significant problems with one’s behaviors and interpersonal relationships, and a dysfunctional emotional response. Like other chronic diseases, addiction often involves cycles of relapse and remission. Without treatment or engagement in recovery activities, addiction is progressive and can result in disability or premature death.”

### **Lack of Regulation**

Both the federal Mental Health Parity and Addiction Equity Act and the Affordable Care Act significantly increased access to substance use disorder treatment services and rehabilitation care over the last decade. However, the expansion of this coverage combined with the heightening opioid and substance abuse crisis currently facing the nation, has created an environment ripe for profiteering and fraud in the substance abuse treatment industry.

Sober living homes, which are substance-free living environments typically coupled with either inpatient or outpatient addiction treatment, have been reported to be particularly fraught with problems. Commonly located in regions with high incidences of substance abuse and/or desirable environments for recovery, such as Florida, California, New England, and the Midwest, these facilities are intended to help those with substance abuse problems overcome their addiction in a safe living environment.

However, these entities have little to no regulation because addiction is protected under federal disability and housing laws. In a September 2018 letter to the federal Substance Abuse and Mental Health Services Administration urging stricter oversight of the industry, the American College of Physicians noted, “These regulatory gaps make it impossible to know the quantity of sober living home facilities, the type and quality of services they provide, and the standards and requirements under which they operate.”

In 2017, the Southern California News Group (SCNG), led by the Orange County Register, conducted an in-depth investigation into what it dubbed “Rehab Riviera,” the cluster of more than 1,000 licensed recovery centers and unlicensed sober living homes operating in Los Angeles, Orange, Riverside and San Bernardino counties. The SCNG investigation found that the treatment industry includes many unscrupulous operators who thrive on an insurance-billing business model without providing meaningful recovery services.

The investigation also revealed the questionable practice of some operators using offers of free travel or financial aid for treatment to lure people from other states into Southern California. Those addicts, in turn, would then be enrolled in health insurance with treatment centers paying the premiums and overbilling insurers for over-utilized and unnecessary urine tests. Then, once their insurance was depleted, the individuals would end up on homeless on Southern California streets. The SCNG investigation concluded that the addiction treatment industry suffers from a combination of poor oversight and greed.

### **Orange County Efforts**

In the wake of the SCNG's investigation, the Orange County District Attorney's (OCDA) Office formed a Sober Living Home Accountability Task Force. The Task Force is comprised of seven members and includes administrative personnel, investigators and attorneys. Most of their work comes from reports of treatment operators that overcharge insurance companies. Officials with the task force report, so far, their work has resulted in the prosecution of two complex insurance fraud cases, one involving urine over-testing and the other involving placement of implants designed to curb opioid addiction.

The OCDA also operates the Sober Living Home Investigation and Prosecution Project, which investigates reports of criminal and civil violations related to sober living homes and addiction treatment or recovery centers. In conjunction with regulatory, administrative, and law enforcement agencies, the OCDA gathers these reports, investigates incidents, refers cases to partner agencies and prosecutes cases criminally or civilly when appropriate.

Additionally, the Orange County Health Care Agency, in conjunction with the OCDA, is developing a publicly accessible online Registry of Alcohol, Narcotic, and Drug Abuse Programs that is expected to roll out within the next month. The Registry will include each substance abuse treatment center's name, business address and state license number. It will also list the identity of each owner, director, partner and officer; the identity of each affiliated business and facility; and the addresses, details of services provided, and accepted methods of payment for each location.

Locally, since 2014, the City of Costa Mesa has been enforcing two ordinances related to group homes, including sober living homes. The ordinances specifically require a sober living home to obtain a special use permit and to be at least 650 feet from another sober living home or from a state licensed alcohol or drug abuse recovery or treatment facility. Other major requirements specify that occupants of sober living homes must actively participate in legitimate recovery programs; the home's rules must prohibit the use of alcohol or any non-prescription drugs at the home or by any recovering individual both on and off-site; the home's visitation policy must ban visitors who are under the influence of any drug or alcohol; and the home must have a 'good neighbor' policy that directs occupants to be considerate of neighbors, including refraining from excessively loud, profane or obnoxious behavior.

Some sober living home operators have attempted to sue the City, alleging that the ordinances are discriminatory and violate federal fair housing law. However, to date, the ordinances have

withstood major legal challenges.

### **Legislative Activity**

After years of unsuccessful attempts, four bills were enacted in the 2018 legislative session to finally bring more oversight to the substance abuse treatment industry.

- SB 1228 (Lara), Chapter 792, Statutes of 2018, prohibits licensed and/or certified alcoholism or drug abuse recovery and treatment facilities, owners, partners, directors, employees, and/or shareholders from giving or receiving anything of value for the referral of a person to a substance abuse treatment facility.
- SB 992 (Hernández), Chapter 784, Statutes of 2018, requires licensed and certified substance abuse treatment programs to disclose business relationships, as specified, and defines sober living home as a “recovery residence” for purposes of the required disclosures.
- SB 823 (Hill), Chapter 781, Statutes of 2018, directs the state Department of Health Care Services to adopt minimum standards of care for licensed treatment facilities based on treatment criteria established by the American Society of Addiction Medicine.
- AB 3162 (Friedman), Chapter 775, Statutes of 2018, makes initial treatment facility licenses provisional, requires all programs and medical services offered or provided by a treatment facility to be specified in the license application, and increases penalties for a violation of licensing law and regulations.

In an effort to further strengthen oversight of the addiction treatment industry, a handful of bills from the 2019 legislative session were also acted on by the Governor:

- AB 919 (Petrie-Norris), Chapter 811, Statutes of 2019, limits substance abuse recovery and treatment facilities from offering housing and transportation free of charge as inducements to treatment. It also directs the state Department of Health Care Services to establish an enforcement program to prevent patient brokering activities.
- AB 920 (Petrie-Norris)/SB 325 (Hill) would have required the state Department of Health Care Services to license all outpatient treatment facilities. It was vetoed by the Governor due to concerns over inadequate statutory authority for the state Department of Health Care Services to monitor and ensure compliance and implementation costs.
- SB 589 (Bates) would have prohibited an operator of addiction treatment facilities from providing any form of false advertising or marketing services, including operators of sober living homes. It was vetoed by the Governor who expressed concerns that the state Department of Health Care Services has no jurisdiction or licensing oversight over sober living homes or third parties and therefore cannot take enforcement against such entities for violations.

## **Key Policy Questions and Areas for Discussion**

The purpose of this hearing is to shine a light on the issues and challenges related to regulating the substance abuse treatment industry in California. The information provided relative to the recovery experience, the need for science-based addiction treatment and the perspective of law enforcement will be helpful in shaping the 2020 legislative agenda. The following represent key policy questions and areas to be discussed.

- 1) How can the state and local governments better help and protect the health, safety and welfare of vulnerable sober living residents?
- 2) What reforms in the substance abuse treatment industry are needed and what level of regulation is appropriate?
- 3) Do good neighbor policies work? How can policymakers find a balance between ensuring that recovering individuals receive the supportive services they need while maintaining residential neighborhoods?
- 4) What can be done to use evidence-based practices to reduce stigma and recognize that substance abuse is a chronic condition requiring a range of recovery supports?