

House Judiciary Committee Subcommittee on the Constitution and Civil Justice hearing
Examining Sober Living Homes
September 28, 2018

On September 28th, the House Judiciary Committee Subcommittee on the Constitution and Civil Justice held a hearing entitled, “Examining Sober Living Homes.”

Witnesses included:

Panel 1

- The Honorable Judy Chu (D-CA)
- The Honorable Dana Rohrabacher (R-CA)

Panel 2

- Todd Leishman, Attorney, Best, Best & Kreiger
- Sara Pratt, Counsel, Relman, Dane & Colfax
- Dave Aronberg, State Attorney, 15th Judicial Circuit, FL
- Erik Peterson, Mayor Pro Tempore, Huntington Beach, CA

Full witness testimony will be available [here](#).

Summary

Some of the key issues raised during witness testimony included: operation of sober homes by bad actors who exploit individuals in need of treatment in order to get insurance money, and the ability of state and local governments to regulate sober homes and the associated negative impact bad actor facilities may have on residential areas.

Witness Testimony

Congresswoman Chu and Congressman Rohrabacher testified on the first panel. Per normal custom, Members did not ask questions following their prepared remarks.

Congresswoman Chu testified that some bad actors do not encourage recovery but instead exploit people in order to get insurance payments. She shared the story of Tyler, a friend of her constituent Ryan Hampton, who died after he fatally overdosed at a sober home that did not recognize the symptoms of an overdose and did not have naloxone on hand. She noted that licenses vary by state and some facilities operate without them. She also stated that oversight is minimal, which makes it difficult for patients and families to tell the good actors apart from the bad.

She said she worked with the National Alliance for Recovery Residences in developing her legislation to address these issues, the *Ensuring Access to Quality Sober Living Act* (HR 4684). Among other provisions, the bill would direct the Department of Health and Human Services (HHS) to develop a set of best practices for residential recovery facilities so patients, families, and states can distinguish quality sober living facilities from sites that are fraudulent or unequipped to offer appropriate assistance to their residents. She noted that the legislation has been incorporated into HR 6, which the House passed today.

Rep. Rohrabacher testified that people seeking recovery are being recruited to southern California and that sober homes have proliferated to the point where the town of Costa Mesa has been labeled the “rehab riviera.” He said that sober homes are not actually “homes,” but rather businesses that operate in residential areas zoned for families and that they operate without standards or background checks. He said the Fair Housing Act grants them protections, which has had the unintended effects of preventing state and local governments from regulating them. As a result, he said that neighborhoods are seeing increases in crime, emergency visits and that there is “filth and trash.” He stated, “To be clear: the presence of recovering drug addicts and alcoholics next door in and of itself is not the problem. The problem is that a lack of oversight is harming them and disrupts neighborhoods. My constituents report increases in criminal activity, noise, filth, trash, and other issues around the homes. Many of the addicts relapse perpetually, transforming the facilities into transient motels that shelter these individuals for only weeks, if not days, at a time. After relapse, the individuals often have nowhere to go, ending up homeless on our streets. This is not a system equipped to aid a class of people desperately needing help, and it’s unfair to require local communities to put up with reductions in their quality of life and home values.”

He noted that he introduced legislation, the *Restoring Community Oversight of Sober Living Homes Act* (HR 5724), to address these concerns, which would 1) clarify that nothing in federal law relating to protections for those with disabilities prohibits local governments from regulating or banning residential recovery facilities, 2) bar federal money from going to homes that are not licensed by their communities, and 3) remove coverage of mental health and substance use from the list of Essential Health Benefits. He said doing so would remove the incentive for operators to encourage patients to relapse so they can get more and lucrative insurance payments.

Erik Peterson, Mayor of Huntington Beach, CA, testified that his city is experiencing increasing difficulties with sober homes. He said that many of the patients ultimately end up homeless as a result of patient brokering practices which sign individuals up for as much public assistance as possible and then kick them out of the house when the money runs out.

Todd Leishman, an attorney with Best, Best & Kreiger, testified that Congress must clarify federal law to make it clear that local governments may regulate sober homes in order to protect people in recovery. He said local regulation is the best way to protect individuals and that more people will relapse, “be trafficked, abused and raped” if Congress does not act.

Sara Pratt, Counsel with Relman, Dane & Colfax, testified that local governments say they cannot pursue bad actors because of the Fair Housing Act, but said that is not actually the case. She recommended that Congress develop best practices for sober homes.

Dave Aronberg, State Attorney with the 15th Judicial Circuit, FL, said that “flop houses” are masquerading as sober homes and only encouraging relapse. He said the very laws intended to help people with addiction are being misused to shield them from those who would do them harm. He recommended that the Administration re-issue 2016 guidance from the Departments of Justice and Housing and Urban Development to clarify whether local zoning laws can require sober homes and recovery communities to be certified, licensed or otherwise subject to minimum standards.

Q&A

Chairman King (R-IA) asked Mr. Aronberg if he endorsed either of the bills sponsored by Reps. Chu and Rohrabacher. Mr. Aronberg said that Congresswoman Chu’s bill is very promising and he likes the

setting of guidelines. He said that he has some issues with Congressman Rohrabacher's bill because he thinks it goes too far. For example, he said he would not eliminate mental health and substance use coverage because that could do more harm than good. He added that the United States is in an unprecedented epidemic, which we cannot arrest our way out of, and that there are legitimate sober homes out there doing good work.

Ranking Member Cohen (D-TN) asked if the witnesses agreed that the Chu bill is better. Ms. Pratt said she agreed that the Chu bill moves in the right direction and Mr. Leishman said that the Chu bill is "great." He echoed Mr. Aronberg and said that the Rohrabacher bill goes too far. He noted that his preferred legislation is a bill introduced by Rep Issa (R-CA).

Mr. Aronberg said that under existing law, many of the problems discussed at the hearing can be addressed. He said local governments need more clarification and protection because right now they feel that they're out there on their own.

Next Steps

As referenced above, today, the House passed HR 6. In addition to Congresswoman Chu's bill, the package includes a provision authored by Sen. Rubio (R-FL) to apply criminal penalties for kickbacks in return for referring a patient to a recovery home or treatment facility. During House debate on HR 6 this morning, House Energy and Commerce Committee Ranking Member Pallone (D-NJ) noted that the provision sponsored by Sen. Rubio did not go through the Committee process and that he had concerns about it creating un-intended consequences. He said he hoped that Committee leadership would commit to working with him to address technical fixes to the provision in the future.