DATE: February 25, 2022
TO: Planning & Development Committee
FROM: Ben Shaiken, Director of Government Relations, The Alliance
RE: S.B. 130 An Act Concerning Regulation of Community Residences.

Good morning Senator Cassano, Representative McCarthy Vahey, Senator Hwang, Representative Zullo and members of the Planning & Development Committee.

My name is Ben Shaiken, Director of Government Relations at the CT Community Nonprofit Alliance (The Alliance). The Alliance is the statewide association of community nonprofits. Community nonprofits provide essential services in every city and town in Connecticut, serving half a million people in need and employing 117,000 people across the State. They are an important part of what makes Connecticut a great place to live and work and an important piece of our economy.

Thank you for the opportunity to testify regarding S.B. 130 An Act Concerning Regulation of Community Residences.

Community nonprofits provide residential services to people across Connecticut. Most of those services are provided under contract with the State. These services include behavioral health services — mental health and substance abuse treatment — that takes place in short-term residential settings, as well as supported living settings more commonly known as "group homes" for people with disabilities of all kinds.

These facilities are heavily regulated by state government, including by C.G.S Sections 8-3e, 8-3f and 8-3g, that all discuss the interplay of "Community Residences" with municipal zoning regulations. Section 8-3e defines Community Residence and, in short, prohibits a local zoning authority from treating such a facility any different from a single-family home under certain conditions. Section 8-3f restricts how close together Community Residences can be located, and section 8-3g disallows a local zoning authority from prohibiting Community Residences in zones allowing multi-family housing.

Currently, "Community Residence" is defined as:

1. A residence that houses six of fewer people with Intellectual/Developmental Disabilities;
2. Any residence serving six or fewer children with mental or physical disabilities;
3. Any residence serving six or fewer people receiving mental health or addiction treatment contracted with the Department of Mental Health and Addiction Services (DMHAS); or
4. Any residence that provides hospice care to six or fewer people, under certain conditions.

S.B. 130 proposes to change the definition of Community Residence to expressly exclude any private, for-profit medical facility, or any facility that receives no funding from DMHAS. This draft language raises several concerns.

First, we are concerned the bill as drafted would create the potential for local zoning boards to broaden their restrictions on non-DMHAS-funded facilities. The language proposed by S.B. 130 would exclude "any facility that receives no funding from the Department of Mental Health and Addiction Services." We are concerned that, if passed as drafted, this language creates a conflict with the current law, summarized above. A local zoning board could interpret that change to allow for the regulation of all non-DMHAS-funded facilities, even though those facilities are covered in subdivisions 1, 2 and 4 of Sec. a of Section 8-3e, and that a court may misinterpret the proponents' intention in the limited revision proposed by S.B. 130 and rule such further exclusion lawful.

In addition, the for-profit facility that S.B. 130 proposes to exclude from the definition of Community Residence is already excluded by current law. Section 8-3e includes in its definition of Community Residence "any community residence that houses six or fewer persons receiving mental health or addiction services and necessary staff persons paid for or provided by the Department of Mental Health and Addiction Services and that has been issued a license by the Department of Public Health under the provisions of section 19a-491, if a license is required." Any organization that does not receive any funding from DMHAS would not meet the definitions in subsections 1,2 and 4 of Sec. a of Section 8-3e. Based on the existing language, such a facility would already be excluded.

Finally, we appreciate the intention of the proponents to protect creation of residential facilities operated by nonprofits, as Sections 8-3e and 8-3f both also include various restrictions on the number of Community Residences that a zoning board may not restrict. However, we believe those siting restrictions and quotas are in violation of Article XXI of the Connecticut State Constitution, the Americans with Disabilities Act, and the Federal Fair Housing Act. We also question whether the narrow definition of "community residence" already in statute, especially if it were narrowed by S.B. 130, could be in violation of these laws. These statutes, as they relate to the protected classes in the ADA and FFHA, have not had more than technical correcting changes since 1989.

Thank you for the opportunity to testify on S.B. 130. We encourage the Committee to revise the bill to address the concerns we have raised. Given the difficulty and challenges that nonprofits endure when siting group homes, we hope the Committee will understand the need to work with all parties to be sure that any changes to statutes protect nonprofit facilities.

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