



# LATE

## DISABILITY AND COMMUNICATION ACCESS BOARD

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### TESTIMONY TO THE SENATE COMMITTEES ON HUMAN SERVICES AND PUBLIC HOUSING AND INTERGOVERNMENTAL AND MILITARY

Senate Concurrent Resolution 93/Senate Resolution 53 - Urging the State Building Code to Expeditiously Adopt Provisions in the International Building Code, 2006 Edition, Relating to Physical Assistance in Evacuation for Residents in Assisted Living Facilities or Similar Facilities

The Disability and Communication Access Board (DCAB) supports the intent of Senate Concurrent Resolution 93/Senate Resolution 53 which seeks to have provisions relating to emergency evacuation of residents in assisted living facilities incorporated into the International Building Code (IBC) 2006.

Last year's passage of legislation creating a State Building Code Council establishing a State Building Code modeled upon the IBC 2006 is a timely and important concept to be considered. The IBC 2006, if not amended, does not completely include all the provisions that the disability community would like to see in order to be consistent with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) or the Federal Fair Housing Accessibility Guidelines. DCAB has prepared several analyses comparing the codes with the knowledge that (1) the IBC 2006 will soon be updated to the IBC 2009 and (2) the ADAAG has a new version that has not yet been adopted by the Department of Justice for enforcement purposes. This is a complex process with several moving targets.

Issues relating to evacuation of assisted living facilities are very important but are not the only issues relating to access and safety for persons with disabilities. We suggest that the resolution, if passed, address the broad issue of including all national provisions of accessibility into the State Building Code.

Thank you for the opportunity to testify.

Respectfully submitted,

PATRICIA M. NIELSEN  
Chairperson  
Legislative Committee

FRANCINE WAI  
Executive Director

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## Revise the IBC I-2 Occupancy

This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing, health or custodial care for persons who are not capable of self-preservation. *This occupancy shall also include building structures used for personal care whose residents are considered not capable of assisted self-preservation.* This group shall be limited to the following:

- Hospitals
- Nursing Homes
- Mental Hospitals
- Detoxification Facilities
- Ambulatory Health Care Centers
- Specialized Alzheimer's Facilities or areas*
- Personal Care Residencies (with residents not capable of assisted self-preservation)*

## Revise the IBC R-4 Occupancy

R-4 residential occupancies shall include buildings arranged for residential care assisted living occupancies and other personal care occupancies, housing more than five residents, *all of whom are capable of responding to an emergency situation without any physical assistance from staff.*

Group R-4 occupancies with 6-16 residents shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the residential code.

Also in the new R-4 occupancy require:

1. Require NFPA 13R sprinklers in Chapter 9.

## GENERAL RECOMMENDATIONS FOR THE STATE OF HAWAII ASSISTED LIVING CODE REGULATIONS

The same general recommendations to the IBC and general compliance with NFPA are recommended for Hawaii. It is assumed that the building department jurisdictions in Hawaii will be implementing the IBC. Also taken into consideration, for Hawaii's recommendations, is how the five nearby States, as noted in the Findings Section, consistently amend the base IBC requirements for assisted living.

1. Hawaii assisted living regulations should match the number of resident designations that are now in existence in the IBC and NFPA: <6, 6-16, and >17.
2. Allowing assistance in exiting a building should be allowed since almost all States allow some form of it.
3. Matching the current IBC occupancy designations for assisted living of I-1, R-4 should be maintained since changing it would affect too numerous sections of the IBC and IFC (International Fire Code).
4. Adding the additional life safety elements recommended for a new revised IBC I-1 similar to elements in I-2 is recommended. These recommendations are addressed in detail in the previous section of the new revised IBC section. They are described in detail there so they can be directly correlated to IBC terminology, format and chapters. Re-writing them into possible DHS and DOH regulations or a State amendment to the IBC can be accomplished, but correlation to the appropriate IBC terminology and format should be carefully maintained. One option for including them in a State building code amendment is included in the next section.

- a. A definition of "assisted self-preservation" similar to the recommendations in the new revised IBC option should be included.
  - b. Add limitations on the number of stories, smoke barriers, NFPA 13, sprinklers, horizontal exits and fire alarms, per the recommendations in the new revised IBC section, should be included.
5. There should be some review with the State on how existing buildings are integrated with the new requirements. They could require conformance to NFPA 101 Life Safety Code for Existing Residential Board and Care Occupancies.
  6. The State Assisted Living regulations should include language so that sufficient staff shall be provided on a 24- hour basis, to assist all residents to reach a point of safety within 13 minutes in I-1 and R-4 facilities. These regulations should specifically be in the Assisted Living regulations since the building code does not regulate staff levels.
  7. Also in the State Assisted Living regulations there should be some clarifications of when the new regulations take affect and what buildings new/ or existing are controlled by the new regulations. Some States use language similar to the following when implementing new requirements: "Facilities licensed after January 1, 2008 shall conform to the following..."
  8. The Assisted Living regulations and/or fire code should include language requiring quarterly or bimonthly fire drills, covering all shifts. Residents should participate in the fire drills.
  9. Conformance with State statutes should be confirmed by DHS or DOH relative to placing possible building code requirements in their regulations, or by recommending implementation into State amendments to the IBC.
  10. Final recommendations will be based on the next part of the agreed terms of this analysis. This reviewer will meet with appropriate stakeholders during two meetings to assist the State in creating a consensus on how to implement these recommendations or revisions to these recommendations, based on stakeholder input. During that time, the final format, location and technical language will be incorporated.
  11. See the next section for a possible the first draft option of a possible Statewide amendment to the IBC.

#### **SPECIFIC INITIAL DRAFT RECOMMENDATIONS FOR THE STATE OF HAWAII ASSISTED LIVING BUILDING CODE REGULATIONS**

The following pages show specific language is a first draft for possible assisted living amendments to the 2003 IBC for the State of Hawaii. Only possible section numbers and page numbers on these following amendments would need to be revised for insertion into the 2006 IBC. Appropriate stakeholder and State review and approval will need to occur before implementation.

There are various ways that different States amend the building code. Some require more printing and revisions to the base IBC than others. The recommended approach for Hawaii is the approach used by the State of Washington. It allows for a complete unedited base IBC with no edits. The amendments are one page amendments that are inserted between existing pages of the IBC. This can be accomplished by utilizing the three ring binder version of the IBC. Washington has used this approach successfully for some time, and is the simplest approach to inserting amendments.

**308.2 Group I-1.** This occupancy shall include buildings, structures or parts thereof housing more than five residents on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants participate in fire drills and are considered capable of assisted self-preservation. Facilities with residents who require additional help beyond assisted self-preservation criteria, shall reside on the first floor in all Type III, IV, and V construction, or shall be classified as Group I-2. This group shall include, but not limited to the following:

- Residential Board and Care Facility
- Assisted Living Facility
- Halfway Houses
- Group Homes
- Social Rehabilitation Facilities
- Alcohol and drug Centers
- Convalescent Facilities

A facility such as above with 6-16 residents shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the residential code in accordance with Section 101.2.

**308.3 Group I-2.** This occupancy shall include buildings and structures used for medical, surgical psychiatric, nursing, health or custodial care for persons who are not capable of self-preservation. This occupancy shall also include building structures used for personal care whose residents are considered not capable of assisted self-preservation. This group shall be limited to the following:

- Hospitals
- Nursing Homes
- Mental Hospitals
- Detoxification Facilities
- Ambulatory Health Care Centers
- Specialized Alzheimer's Facilities or areas
- Personal Care Residencies (with residents not capable of assisted self-preservation)

A facility such as above with five or fewer persons shall be classified as Group R-3 or shall comply with the residential code in accordance with Section 101.2.

R-4 Residential occupancies shall include buildings arranged for residential care assisted living occupancies and other personal care occupancies housing more than five residents all of which are capable of responding to an emergency situation without any physical assistance from staff.

Group R-4 occupancies with 6-16 residents shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the residential code.

#### Section 310.2

**ASSISTED SELF-PRESERVATION** is a term used for personal care I-1 occupancies. It is the ability of a resident to respond to an emergency situation and exit a building to a point of safety mostly on their own or with some physical assistance from staff. Residents who require guiding or directing, who are considered slow to very slow, or who may receive intermittent assistance, are considered capable of assisted self-preservation. Residents who require more than intermittent nursing care are considered not capable of assisted self-preservation. Residents who are not self starting, are considered beyond very slow, or who require assistance by more than one staff in exiting, are all considered not capable of assisted self-preservation.

**POINT OF SAFETY** is a term used for I-1 occupancies. At least one point of safety is required. Each point of safety shall provide a minimum of 10 square feet (0.93 m<sup>2</sup>) of refuge area for each building occupant and shall be one of the following:

1. A point exterior to, and not less than 50 feet away from the building which shall be provided with access to a public way;
2. A public way; or
3. A point within a building that is protected throughout by an approved automatic sprinkler system and is either:

Within a vertical exit enclosure construction per Chapter 10.

Within another portion of the building which is separated by a smoke barrier or horizontal exit that is also built to smoke barrier requirements and that portion of the building has access to an exit.

**419.4 Group I-1 Assisted Living.** Group I-1 Assisted Living Facilities with over 16 residents, shall comply with the provisions of this section.

**419.1 Building Height.** Buildings shall not exceed one story in Type VB construction, two stories in Types IIB, III, IV, and VA construction, and three stories in Type IIA construction. Other construction type limitations on stories shall be limited by the provisions of Chapter 5.

**419.2 Smoke Barriers.** Smoke barriers shall be provided to subdivide every story used by residents for sleeping or treatment into at least two smoke compartments with not more than 16 residents per smoke compartment and not more than 150' of travel distance. Smoke compartments shall be in accordance with Section 709.

(insert As Page 72A)

**Section 903.2.5 Group I.** An NFPA 13 automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

Exceptions:

1. An NFPA 13R automatic sprinkler system shall be installed in accordance with Section 903.1.2 in I-1 occupancies with 6-16 residences in the facility.

(insert Facing Page 175)

**3401.3.1 Group I-1 Existing Assisted Living  
Automatic Sprinkler System Requirements.**

1. Existing facilities with over 5 residents shall be provided throughout with an NFPA 13R automatic sprinkler system, when there are residents requiring and categorized as being capable of assisted self preservation, residing above the level of exit discharge.
2. Existing facilities with over 16 residents shall conform to the requirements for Group I-2, except for the 8' corridor and 44" door width requirements, when there are residents who are considered not capable of assisted self preservation, residing above the level of exit discharge.

**(Insert Facing Page 567)**



Submitted by:

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