CRA
California Rehabilitation Association

October 16, 2006

California Building Standards Commission
2524 Natomas Park Drive, Suite 130
Sacramento, CA 95833
ATTN: Jane Taylor, Associate Architect

RE: Comments on Proposed Building Standards of the Office of State Fire Marshal; Adoption of the 2006 International Building Code (IBC); California Code of Regulations, Title 24, Part 2

The California Rehabilitation Association (CRA) is a statewide trade association representing, among others, providers of services included in the above-referenced proposed building standards under the category of Group R-3; Adult Day Care and Adult Day Support and Group I-4; Adult Care Facilities.

No prior notice of discussion with stakeholders: These regulations are very extensive, involving complex changes to a myriad of provisions that directly impact the day to day lives of people with mental retardation and similar conditions, autism, cerebral palsy, epilepsy and other developmental disabilities. Although we are very familiar with the Administrative Procedures Act, which requires early notice and an opportunity to review and discuss such complex changes to regulations with stakeholders, we are unfamiliar with all of the procedural provisions followed by the Building Standards Commission. Nonetheless, it would be good public policy for such early consultation to occur and no such process has been followed in this case.

This is not the first time that complex regulations have been proposed effecting this population. In the past, regulations of such dramatic change on this population were withdrawn and commitments were made by the Building Standards Commission that future efforts impacting this population would be discussed in advance with the stakeholders. Direction to this effect was given by the Commission to the State Fire Marshal.

CRA is a stakeholder is this system and has commented extensively on previous regulatory actions. We were not invited to participate in any meetings of stakeholders and again, it is our understanding that no such meetings have occurred.

Excessive Cost: The Administrative Procedures Act requires the proposing agency, in this case the State Fire Marshall, to discuss a number of impacts that the regulations could have on the affected entities, including whether the proposal may have a significant, statewide adverse impact impacting the business, discuss the potential cost to the affected businesses, and discuss whether the regulations could cause small businesses to close. Again, we are not familiar with the procedures followed by the Building Standards Commission but excessive cost remains an issue in this case.

These regulations require the installation of complex building systems including but not limited to fire sprinkler systems in both new and existing facilities providing services to adults with developmental disabilities. In particular, a retrofit requirement of this magnitude would be prohibitively expensive. The requirement would have the near immediate impact on our businesses, most of whom are community-based, private non-profit corporations funded with a combination of state and federal monies and private fundraising, to at best relocate and at worst close their doors.

Inconsistent with Other Statutes: Existing California law known as the Lanterman Developmental Disabilities Services Act (Welfare & Institutions Code §4500 et al) provides extensive protection of and opportunities for people with developmental disabilities. Among the most significant is the expectation that people with

disabilities shall have the opportunity to live their lives as close as possible to the way someone without a disability is able to live their lives. This is also consistent with federal law, the Americans with Disabilities Act (Americans with Disabilities Act of 1990 (Pub. L. 101-336), Volume 42 of the United States Code, beginning at section 12101).

This federal law has been interpreted by the United States Supreme Court (*OLMSTEAD V. L. C.* (98-536) 527 U.S. 581 (1999) 138 F.3d 893) to require those services to be provided in the least restrictive environment possible.

By imposing requirements on the locations where people with disabilities can gather, receive services, and engage in their daily activities that are far greater than those required by the specific disabilities of the persons receiving the services, these regulations would violate the requirements of the ADA and *Olmstead*.

For all of these reasons, the California Rehabilitation Association expresses its deep concerns regarding the probable impact of these regulations on the lives of the people we serve. We respectfully request that the provisions of the regulations that impose unnecessary and undue hardship on people with developmental disabilities be extensively re-worked or withdrawn.

We further request to be placed on the formal notice list to receive specific notice of all proposed regulations dealing with both residential and non-residential building code changes impacting people with developmental disabilities. Such changes should be addressed to:

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Sincerely,

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Dr. Michael McCoy, Executive Director, CRA
Will Sanford, President of the Board, CRA
Charles "Skip" Covell, Chair; CRA Services and Supports Committee