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# CALA

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# *Bulletin*

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The Voice of Assisted Living

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## **Bedridden and Beyond**

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Over the past three or four years, the Building Codes governing Residential Care Facilities for the Elderly (RCFEs) have endured a remarkable evolution. In a very short period of time, the transformation created a great deal of distress over the possible eviction of residents living in perceived to be under-protected buildings, limiting bedridden residents to ground floor unit locations and the fear that the typical three story wood frame Assisted Living Building model could no longer be used to house nonambulatory residents.

CALA members have endured many seemingly arbitrary and inconsistent Code enforcement actions by many jurisdictions across the State. The climate back in 2006 - 2007 regarding the granting of Fire Clearance STD 850 Forms for most operators wanting to improve their physical plant or increase their licensed occupancy bed count was tremendously difficult, and in some cases, impossible. Many local fire departments did not want to approve facilities that they mistakenly believed would house nursing home or hospital patients. This phenomenon evolved from contemporaneous legislation responding to a child care industry crisis and the introduction of the word "bedridden" into our vernacular. Until then, "nonambulatory" suited the industry and the enforcement agencies and defined the Assisted Living resident.

The arrival of the 2007 California Building Code (CBC) based upon a new model code, the International Building Code, further exacerbated the confusion and inability for local authorities to correctly apply the Code. With 2007 CBC, came the new I-1 Occupancy Group replacing our R-2.1. This was the building Occupancy Group Classification for Assisted Living facilities and memory care units, all RCFE's, housing more than 6 nonambulatory and/or bedridden residents. Changing from a Residential (R) to Institutional (I) Occupancy Group placed RCFEs into the Group I or institutional occupancy classification. Considering that Group I Occupancy buildings include hospitals, skilled nursing homes, psychiatric hospitals and prisons, it is not difficult to see how this new direction conflicts with our industry and society's effort to create more residential and home-like environments for the care and housing of our elders. There are too many differences between the 2007 CBC and its predecessor to be described in this short article. However, the top three notable differences are as follows:

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1. Under the 2007 CBC, RCFEs are required to meet the Accessibility Standards listed in Chapter 11B as opposed to 11A for housing. Under 11B resident units, or patient rooms as described in Group I, are required to meet much more restrictive Accessibility Code requirements. For example, 50% of all the patient room bathrooms had to be accessible while the others could be anything you wanted.
2. Group I Occupancies are also required to have a covered drop off adjacent to the main entry. This requirement usually translated in a porte cochere, which is a wonderful amenity for many Assisted Living communities. This now mandated requirement adds significant expense to a construction project; where before the inclusion of this design element was discretionary.
3. The 2007 CBC further exacerbated the confusion regarding three story wood framed buildings. Many California Assisted Living providers operate in three story buildings housing nonambulatory and/or bedridden residents on the first and second floors and housing ambulatory, independent living residents on the third floor. Under the 2007 CBC, a two hour occupancy separation between the second and third floors is required. This was significant as the Code further required that all structure supporting the 2 hour occupancy separation was also to be 2-hour. The State Fire Marshall's answer to this was to create a kind of hybrid Type V 2-hour construction. This model was never completed by any known operator

It is estimated that the 2007 CBC placed well over 100 buildings out of conformance the day it became effective. Although there were no retroactive upgrades required or demanded, if an operator submitted a building alteration, addition, repair, or a new construction application, Code officials had to consider the new requirements for these areas of work. In many cases, a formal change of occupancy was demanded.

The application of the ever changing Building Codes by many local fire authorities veered outside of Code and the statutory requirements that govern RCFEs. In the not-so-distant memories of many operators, issues of non-ambulatory and bedridden status have left an indelible mark. Local Fire Departments were enforcing staffing and other emotional charged requirements outside their authority and often would assign only a handful of bedridden beds when entire floors were eligible.

To the great credit of CAL FIRE/Office of the State Fire Marshall and CALA, the bedridden issues that were plaguing our industry have been resolved. Through the SFM, RCF Code Advisory Committee, CALA and other industry leaders, an effort to resolve the regularly challenge continued to develop and gained momentum. CALA lead the effort to change the statutory requirements through the legislative process, and with the successful passing of AB 762, the Health and Safety Code governing RCFEs was changed. AB 762 went into effect in January 2010 and brought clarity to the definition of bedridden status, it provided assistance and direction to Code officials in applying the Code and issuing Form STD 850, and it clarified the responsibility of determining bedridden status as the Department of Social

Services, not the Fire Service. The responsibility of local Fire Service is limited only to the enforcement of building and fire and life safety standards.

The regulatory climate continues to brighten, at least from a Building Code and Fire and Life Safety perspective. Effective January 1, 2011 the 2010 California Building Code (2010 CBC) changes, hopefully forever, the RCFE Occupancy Group for Assisted Living buildings back to R-2.1. RCFE.

The 2010 CBC will maintain all of the benefits from the 2007 CBC and eliminate most if not all of the problems associated with it. Again, too many for a short article but the notable benefits are as follows:

1. The 2010 CBC extends the response time for delayed egress devices in Memory Care applications. Under the 2007 CBC and its predecessors, delayed egress control devices were limited to a 15 second delay before they would deactivate allowing the exit door they served to open. That duration has been doubled for delayed egress control devices used specifically in RCFE memory care facilities. The extended duration now allows staff 30 seconds to respond to a resident attempting to pass through a controlled exit.
2. The 2010 CBC has maintained the preceding code benefits, including the increase in the length of a smoke compartment which may reduce the number of smoke barrier walls required to achieve compartmentalization. The travel distances within a smoke compartment have grown from 150' to 200'.
3. The allowable building height for a wood frame building is now clarified under the 2010 CBC. The buildings we described as being thrown out of conformance by the 2007 CBC at the beginning of this article, now all fall neatly back into place under the 2010 CBC. Any buildings housing a nonambulatory resident on the first and second floor are required to be of Type V-A, or one-hour fire rated wood frame construction. Furthermore, maximum clarity of the Code has been added to allow the common three story building with nonambulatory and/or bedridden residents housed on the first and second floors and ambulatory residents to be housed on the third floor. No additional fire rated separations or structural support is required to reach compliance.

The decision to change the building code Occupancy classification from R-2.1 to I-1 was simply a mistake. To the great credit of CALA and the State Fire Marshall's Office and all of their efforts, and in a relatively short period of time, this mistake has been corrected and now Assisted Living buildings fall back under the R, residential occupancy groups classification where they belong.