March 14, 2008

Chief Jim Mulhall
Atascadero Chief of Police
5505 El Camino Real
Atascadero, CA 93422

Dear Chief Mulhall:

Atascadero State Hospital (ASH), at the behest of the Department of Mental Health (DMH), is requesting modification of the Atascadero City’s Smoking Ordinance to include the proposed language attached. It is DMH’s intent to ban smoking in and out of doors at all of its state hospitals.

Currently, the California Department of Corrections and Rehabilitation bans smoking at all of its 33 facilities. Most county jails throughout the state also prohibit smoking. The Department of Public Health (formerly Health Services), charged with enforcing health regulations, will not allow state hospitals to ban smoking in its facilities. Regulations require that long term care facilities, a category in which state hospitals are included, provide designated smoking areas for the facility’s residents.

In a case involving a long term care facility within the San Jose City limits, a superior court ruled that the San Jose City ordinance on smoking trumped the Health Services’ regulation. The San Jose City ordinance is very similar to the language we are proposing to modify the Atascadero City ordinance on smoking.

I respectfully request that Atascadero City Council consider modification of the Atascadero City ordinance on smoking. If implemented, this will allow ASH to successfully ban smoking throughout the facility. This ban on smoking would be extremely beneficial to all non-smokers, staff and patients alike within the facility, as well as improve the health of the smokers and reduce costs associated with housekeeping, maintenance, supervision, and health care.

Sincerely,

JON DE MORALES
Executive Director

JD/mc
Attachment
PROPOSED SMOKING ORDINANCE LANGUAGE

Notwithstanding any other provision of law, any owner, operator, manager, or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment. The terms "entire establishment or facility" shall include a tract of land with buildings thereon and a building with its grounds, including any State Hospital and its grounds.