

## New Fire Safety Rules Summary Evvie Munley, LeadingAge

Following is the link to the Centers for Medicare and Medicaid Services (CMS) Final Rule, ‘Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities’, published in the Federal Register today, May 4, 2016, and effective July 5, 2016.

<https://www.gpo.gov/fdsys/pkg/FR-2016-05-04/pdf/2016-10043.pdf>

This Rule amends the fire safety standards for Medicare and Medicaid participating hospitals, critical access hospitals (CAHs), long-term care facilities, intermediate care facilities for individuals with intellectual disabilities (ICF-IID), ambulatory surgery centers (ASCs), hospices providing inpatient services, religious non-medical health care institutions (RNHCIs), and programs of all-inclusive care for the elderly (PACE) facilities.

The Rule adopts the 2012 edition of the Life Safety Code (LSC), which contains several changes from the 2000 LSC. It also adopts the 2012 edition of the Health Care Facilities Code, with some exceptions.

### ‘Chapter 43—Building Rehabilitation’

- The 2000 LSC requires minor renovation projects to meet the same requirements as those applied to completely new construction. The 2012 LSC “Chapter 43--Building Rehabilitation" replaces the requirements that all modernizations/renovations meet the requirements for new construction. The degree to which requirements for new construction must be met now varies with the rehabilitation work category.
  - Buildings that have not received all pre-construction governmental approvals required by their respective jurisdiction(s) before the rule's effective date, or those buildings that begin construction after the effective date, will be required to meet the New Occupancy chapters of the 2012 LSC.
  - Buildings constructed before the effective date of this regulation will be required to meet the Existing Occupancy chapters of the 2012 LSC. Changes made to buildings would be required to comply with Chapter 43--Building Rehabilitation, which could require compliance with the New Occupancy chapters, depending on the changes being made.

The following provisions appear in the 2012 LSC, but did not exist in the 2000 LSC, for Chapter 18, “New Health Care Occupancies," and Chapter 19, “Existing Health Care Occupancies."

- **18.2.3.4 (2) and 19.2.3.4(2)--Corridor Projections:** Requires noncontinuous projections to be no more than 6” from the corridor wall. However, in addition to the requirements of the LSC, health care facilities are also required to follow the Americans with Disabilities Act (ADA). Section 307 of the “ADA Accessibility Guidelines for Buildings and Facilities” (<http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm#c4>) requires

that objects mounted above 27” and no more than 80’ high be no more than 4” from the corridor wall. CMS intends to provide technical assistance regarding strategies for avoiding noncompliance with the ADA.

- **18.7.5.7.2 and 19.7.5.7.2—Recycling:** Requires that containers used solely for recycling clean waste be limited to a maximum capacity of 96 gallons. If the recycling containers are located in a protected hazardous area, container size will not be limited.
- **18.3.6.3.9.1 and 19.3.6.3.5--Roller Latches**
  - CMS is not adopting the 2012 LSC provision permitting roller latches on corridor doors, i.e., “Through fire investigations, roller latches have proven to be an unreliable door latching mechanism requiring extensive maintenance to operate properly. Many roller latches in fire situations failed to provide adequate protection to residents in their rooms during an emergency.
  - “Roller latches will be prohibited in existing and new Health Care Occupancies for corridor doors and doors to rooms containing flammable or combustible materials. These doors will be required to have positive latching devices instead.”
- **18.4.2 and 19.4.2--Sprinklers in High-Rise Buildings:** Requires buildings over 75' (generally greater than 7-8 stories) in height to have automatic sprinkler systems installed throughout. The 2012 LSC allows 12-years from when the authority having jurisdiction (which in this case is CMS) officially adopts the 2012 LSC for existing facilities to comply. Therefore, those facilities that are not already required to do so have 12 years following publication of the final rule to install sprinklers.
- **18.2.2.2.5.2 and 19.2.2.2.5.2--Door Locking:** Requires that, where the special needs of patients require specialized protective measures for their safety, door-locking arrangements are permitted.
  - Allows interior doors to be locked subject to the following: (1) all staff must have keys; (2) smoke detection systems must be in place; (3) the facility must be fully sprinklered; (4) the locks are electrical locks that will release upon loss of power; and (5) the locks release by independent activation of the smoke detection system and the water flow in the automatic sprinkler system.
- **18.3.2.6 and 19.3.2.6--Alcohol Based Hand Rubs (ABHRs)**
  - Explicitly allows aerosol dispensers in addition to gel hand rub dispensers. Aerosol dispensers are subject to limitations on size, quantity, and location.
  - Automatic dispensers are now permitted in health care facilities, provided the following requirements are met: (1) They do not release contents unless activated; (2) activation occurs only when an object is within 4” of the sensing device; (3) any object placed in the activation zone and left in place must not cause more than 1 activation; (4) the dispenser must not dispense more than the amount required consistent with the label instructions; (5) the dispenser is designed, constructed and operated in a way to minimize accidental or malicious dispensing; (6) all

dispensers are tested in accordance with the manufacturer's care and use instructions each time a new refill is installed.

- Defines prior language regarding “above or adjacent to an ignition source” as being “within 1 inch” of the ignition source.
- **18.3.5 and 19.3.5--Extinguishment Requirements:** Requires evacuation or an approved fire watch when a sprinkler system is out of service for more than 10 hours in a 24-hour period until it is returned to service.
- **18.2.3.4 and 19.2.3.4—Corridors:** Allows wheeled equipment in use, medical emergency equipment not in use, and patient lift and transportation equipment to be stored in corridors for more timely patient care. This provision also allows placement of fixed furniture in corridors to create resting points for patients and families and a more home-like setting as long as it does not obstruct accessible routes required by the ADA.
- **Sections 18.3.2.5.3 and 19.3.2.5.3--Cooking Facilities**
  - Cooking facilities are allowed in a smoke compartment where food is prepared for 30 or fewer individuals (by bed count).
  - The cooking facility is permitted to be open to the corridor, provided the following conditions are met: the area being served is 30 beds or less; separated from other portions of the facility by a smoke barrier; and the range hood and stovetop meet certain standards--
  - A switch must be located in the area used to deactivate the cook top or range whenever the kitchen is not under staff supervision;
  - The switch also has a timer, not exceeding 120-minute capacity that automatically shuts off after time runs out;
  - 2 smoke detectors must be located no closer than 20 feet and not further than 25 feet from the cooktop or range.
- **18.7.5.1 and 19.7.5.1--Furnishings & Decorations**
  - Allows combustible decor in any health care occupancy as long as they are flame-retardant or treated with approved fire-retardant coating that is listed and labeled, and meet fire test standards.
  - Decor may not exceed--(1) 20% of the wall, ceiling and doors in any room that is not protected by an approved automatic sprinkler system; (2) 30% of the wall, ceiling and doors in any room not protected by an approved, supervised automatic sprinkler system; and (3) 50% of the wall, ceiling and doors in any room with a capacity of 4 people not protected by an approved, supervised automatic sprinkler system.
- **18.5.2.3 and 19.5.2.3—Fireplaces:** Allows direct-vent gas fireplaces in smoke compartments without the 1 hour fire wall rating. Fireplaces must not be located inside of any patient sleeping room. Solid fuel-burning fireplaces are permitted and can be used only in areas other than patient sleeping rooms, and must be separated from sleeping rooms by construction of no less than a 1 hour fire resistance wall rating.

- **Outside Window or Door Requirements**

- The 2000 LSC required every health care occupancy patient sleeping room to have an outside window or door, with new health care occupancies having an allowable sill height not to exceed 36” above the floor with certain exceptions. This requirement does not exist in the 2012 LSC; however, as outside windows and doors may be used for smoke control, building entry, patient and resident evacuation, and other emergency operations, CMS is retaining this requirement for facilities built after the effective date of this final rule, i.e., new construction, with the following exceptions:
  - Newborn nurseries and rooms intended for occupancy for less than 24 hours have no sill height requirements;
  - Windows in atrium walls shall be considered outside windows for the purposes of this requirement;
  - The window sill height in special nursing care areas shall not exceed 60 inches above the floor.

### **Waiver Authority**

- CMS will retain existing authority to waive provisions of the LSC under certain circumstances.
- A waiver may be granted for a specific LSC requirement if it is determined that-- (1) the waiver would not adversely affect patient/staff health and safety; and (2) it would impose an unreasonable hardship on the facility to meet a specific LSC requirement.
- In cases where a provider/supplier is cited for a LSC deficiency, a waiver recommendation may be requested from the State Survey Agency (SA) or Accrediting Organization (AO) with a CMS-approved Medicare and applicable Medicaid accreditation program. The CMS Regional Office will review the waiver request and recommendation and make a final decision.

**Fire Safety Evaluation System (FSES):** CMS retains authority to apply the Fire Safety Evaluation System (FSES) option within the LSC as an alternative approach to meeting the requirements of the LSC.

### **NFPA 99**

- “The 2012 edition of the NFPA 99, “Health Care Facilities Code”, addresses requirements for both health care occupancies and ambulatory care occupancies, and serves as a resource for those who are responsible for protecting health care facilities from fire and associated hazards. The purpose of this Code is to provide minimum requirements for the installation, inspection, testing, maintenance, performance, and safe practices for health care facility materials, equipment and appliances.”
- NFPA 99 applies specific requirements based on results of a risk-based assessment methodology; this allows for application of requirements based upon the types of treatment and services being provided rather than type of facility. In order to ensure the minimum level of protection afforded by NFPA 99, it is applicable to all patient and resident care areas within a health care facility.

- CMS is adopting the 2012 NFPA 99, with certain exceptions [chapters 7, 8, 12, and 13]. Key provisions include:
  - Chapter 4: Provides guidance on how to apply NFPA 99 to health care facilities based upon “categories” determined when using a risk-based methodology. There are 4 categories based on treatment and services provided:
    - #1: “Facility systems in which failure of such equipment or system is likely to cause major injury or death of patients or caregivers...” E.Gs of major injury are amputation or a burn to the eye.
    - #2: “Facility systems in which failure of such equipment is likely to cause minor injury to patients or caregivers...” A minor injury is one that is not serious or involving risk of life.
    - #3: “Facility systems in which failure of such equipment is not likely to cause injury to patients or caregivers, but can cause patient discomfort...”
    - #4: “Facility systems in which failure of such equipment would have no impact on patient care...”
- Each health care or ambulatory occupancy will define and implement its risk assessment methodology and document the results. CMS will not require submission of risk assessment methodologies or the use of any particular risk assessment procedure, but will confirm via the onsite survey that risk assessment methodologies are being used.
- Chapter 5-Gas and Vacuum Systems. Addresses the ability of oxygen and nitrous oxide to exacerbate fires, safety concerns from the storage and use of pressurized gas, and the reliance upon medical gas and vacuum systems for patient care. If such systems are installed they must comply with NFPA 99.
- Chapter 6-Electrical Systems. Addresses hazards related to the electrical power distribution systems in health care facilities, and issues such as electrical shock, power continuity, fire, electrocution, and explosions that might be caused by faults in the electrical system.
- Chapter 9-Heating, Ventilation, and Air Conditioning (HVAC). Requires HVAC systems serving spaces to be in accordance with the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) Standard 170- Ventilation of Health Care Facilities (2008 edition) (<http://www.ashrae.org>). Chapter 9 applies to new construction, and altered, renovated, or modernized portions of existing systems or individual components.
- Chapter 10--Electrical Equipment. Covers performance, maintenance, and testing of electrical equipment. Much applies to requirements for portable electrical equipment, but also included are requirements for fixed-equipment and information on administrative issues.
- Chapter 11-Gas Equipment. Addresses general fire, explosions, and mechanical issues associated with gas equipment, including compressed gas cylinders.
- Chapter 14-Hyperbaric Facilities. Addresses hazards associated with hyperbaric facilities in health care facilities, including electrical, explosive, implosive, and fire hazards. Many requirements are applicable only to new construction.
- Chapter 15-Features of Fire Protection. Covers the performance, maintenance, and testing of fire protection equipment in health care facilities.

### **Hospice / PACE / LTC Facilities**

- Due to similar content and regulatory structure, most of the information repeats for these providers.
  - All would retain requirements related to the prohibition of roller latches.
  - All propose modifications specific to ABHRs consistent with the 2012 LSC.
  - All would require evacuation or fire watch when a sprinkler system is out of service for more than 10 hrs in a 24 hr period until the system is back in service.
  - All would retain the 36” window sill for facilities built after the effective date of this final rule, i.e., new construction.
  - All add compliance with NFPA 99.
  - Waivers would be allowed consistent with current requirements/procedures.
- **Hospice:** Condition of Participation: Hospices that Provide Inpatient Care (418.110)\
- **Programs of All-Inclusive Care for the Elderly (PACE):** CoP: Physical Environment (460.72) PACE providers would continue to be required to meet LSC specifications for the type of facilities in which the programs are located (that is, hospitals, and office buildings).
- **Long-Term Care Facilities:** CoP: Physical Environment (Sec. 483.70)