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To: Nursing Homes NH 03  
 Facilities for the Developmentally Disabled FDD 02  
 Hospitals HOSP 04  
 Hospices HSPCE 04  
 End Stage Renal Dialysis Units ESRD 01  
 Ambulatory Surgical Centers ASC 01

From: Jan Eakins, Chief  
 Provider Regulation and Quality Improvement Section

cc: Susan Schroeder, Director  
 Bureau of Quality Assurance

**CMS ADOPTS LIFE SAFETY CODE**

The Centers for Medicare and Medicaid Services (CMS) has formally adopted, by reference, the 2000 edition of the Life Safety Code (LSC) of the National Fire Protection Association (NFPA). Adoption by reference occurred **January 10, 2003** in the Federal Register with an effective date of **March 11, 2003**. All health care facilities referenced in the rule require compliance on **September 11, 2003**. Copies of the Federal Register document detailing these requirements can be obtained at: [www.dhfs.state.wi.us/rl\\_DSL/Publications/FireSafety.pdf](http://www.dhfs.state.wi.us/rl_DSL/Publications/FireSafety.pdf)

CMS states that while all health care facilities will be affected, most will be affected minimally. Each new edition of the Life Safety Code (LSC) builds on the prior editions. Most health care providers and advocates complained that facilities are exposed to additional work and expense without gain in fire safety by continuing to abide by multiple editions of the LSC. Multiple editions of the LSC also has caused confusion, as well as additional burden to the health care industry in requesting waivers, changing renovations, and complicating surveys. By adopting the 2000 edition of the LSC, CMS will eliminate confusion as to which edition a health care facility must follow. The use of a single edition of the code will also contribute to lowering the cost of complying with the requirements for testing and maintenance of fire protection systems.

Health care facilities **NOT** affected by this final rule are:

- 1) Facilities not participating in the Medicare/Medicaid programs, for example:
  - residential hospice programs,
  - private-pay facilities.
- 2) End-Stage Renal Disease (ESRD) facilities.

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## FACILITY IMPACTS

The final rule removes **ALL** prior editions of the LSC, specifically the 1967, 1973, 1981 and 1985 editions of NFPA 101, from the federal register.

Existing facilities will fall under **Chapter 19 “Existing Health Care Occupancies”** of the 2000 edition of NFPA 101.

CMS identified six LSC requirements critical to the safety of beneficiaries summarized as follows for existing facilities:

- 1) **Roller latches** (19.3.6.3.2) – Requires replacement of corridor door roller latches with standard latching hardware. There is a 3-year phase-in for compliance beginning March 11, 2003 and ending March 13, 2006.
- 2) **Emergency Lighting** (19.2.9) – Requires providing emergency lighting for 1 ½ hours, to be phased in over a 3-year period beginning March 11, 2003 and ending March 13, 2006.
- 3) **Protection of Vertical Openings** (19.3.1) – Vertical openings required to be enclosed, with 1-hour construction, shall be corrected by September 11, 2003.
- 4) **Emergency Forces Notification** (19.3.4.3.2) – Requires the fire alarm system to provide automatic notification of a fire to emergency forces without any delay to be corrected by September 11, 2003.
- 5) **Corridors** (19.3.6.1) – Requires all areas of non-sprinklered buildings to be separated from the corridor with 1/2 hour rated walls to be corrected by September 11, 2003.
- 6) **Upholstered Furniture** (19.7.5.2 and 19.7.5.3) – Requires rooms with patient/resident owned furniture to have a smoke detector installed by September 11, 2003.

Additional items may affect a facility that CMS did not identify within this list. See the ‘Resource’ section of this memo below for additional information. Renovations, alterations, modernizations, or repairs shall not reduce the life safety below the level that previously existed.

## WAIVER / EQUIVALENCY REQUESTS

CMS retains the authority to waive provisions of the 2000 edition of the LSC, on a case-by-case basis, and thereby reduce the exposure to additional costs and burden for those facilities with unique situations that may justify the application of a waiver or equivalency.

The Department of Health and Family Services (DHFS) Fire Authority, in coordination with the assigned department engineer, will recommend approval or denial of a waiver request to CMS. CMS may grant a waiver for a specific LSC requirement if:

- 1) The waiver will not adversely affect patient and staff health and safety; and,
- 2) The waiver would impose an unreasonable hardship on the facility to meet the specific LSC requirement.

DHFS and CMS will not grant a waiver if patient/resident safety is compromised in any way.

CMS also retained the authority to apply the Fire Safety Evaluation System (FSES) as an alternative approach to meeting the requirements of the LSC. The FSES alternative approach is

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used by qualified individuals trained and experienced in the proper application and limitations of the FSES. This approach is not to be used if patient/resident safety is compromised in any way.

Facilities surveyed annually, nursing homes and intermediate care facilities for persons with Mental Retardation, are encouraged to make waiver requests at the time of survey through the Plan of Correction (POC) process. Requests outside of a survey must specify the code section petitioned and can be forwarded to:

Provider Regulation and Quality Improvement Section  
Attn: Jan Eakins, Chief  
Bureau of Quality Assurance  
PO Box 2969  
Madison, WI 53701-2969

## RESOURCES

Copies of the Federal Register document detailing the requirements outlined in this memorandum can be obtained at: [www.dhfs.state.wi.us/rl\\_DSL/Publications/FireSafety.pdf](http://www.dhfs.state.wi.us/rl_DSL/Publications/FireSafety.pdf)

Facilities are encouraged to be cognizant of the regulations affecting their facilities. Copies of the 2000 edition of the LSC are available from NFPA in both electronic and bound versions. NFPA can be contacted at: **1-800-344-3555** or at [www.nfpacatalog.org](http://www.nfpacatalog.org)

The Bureau participates in annual training events open to providers and designers to provide a pro-active approach to aid consistent health care regulation. The Bureau frequently participates in training with the following organizations:

- 1) Wisconsin Building Code Refresher or Building Code Intensive sponsored by University of Wisconsin – Department of Engineering Professional Development. Details are available at <http://epdweb.engr.wisc.edu> or by calling (800) 462-0876.
- 2) Wisconsin Healthcare Engineering Association (WHEA) sponsors an annual conference specific for health care facilities including physical plant and regulatory sessions. Details available at [www.whea.com](http://www.whea.com) or by calling (608) 524-5054.

Health care facilities are encouraged to seek private sector design professionals if physical plant impacts, financial estimates, or risk assessments are sought regarding their specific facility in relation to the 2000 edition of the Life Safety Code.

## SURVEYS

The Department Health and Family Services (DHFS) anticipates **enforcing** the 2000 edition of the LSC starting with surveys taking place on or after **September 11, 2003**. CMS is currently authoring and organizing its guidance to state survey agencies. The Department's LSC

surveyors will participate in CMS sponsored LSC training in the near future. Additional clarification of facility impacts, waivers, and resources may become available at a later time.

### **FIRE REPORTS**

Fire reporting forms are available at <http://dhfs.wisconsin/forms1/F6/F62500.pdf>. All incidents of fire in a hospital, nursing home or facility for the developmentally disabled are required to be reported to the Department within 72 hours. Reports can be faxed to the Fire Authority at **(608) 267-7119**

### **QUESTIONS**

Questions or comments regarding the CMS adoption process or rule changes can be forwarded to CMS at: <http://cms.hhs.gov>