

Office of Clinical Standards and Quality/Survey & Certification Group

Ref: S&C-12-21-LSC

DATE: March 9, 2012

TO: State Survey Agency Directors
State Fire Authorities

FROM: Director
Survey and Certification Group

SUBJECT: Instructions Concerning Waivers of Specific Requirements of the 2012 Edition of the National Fire Protection Association (NFPA) 101, the Life Safety Code (LSC), in Health Care Facilities – Clarification Effective Immediately

Memorandum Summary

- **Updates to Previous Instructions:** This letter addresses updates to the Centers for Medicare & Medicaid Services (CMS) policy regarding Capacity of the Means of Egress; Cooking Facilities; Heating, Ventilating, and Air Conditioning; and Furnishings, Mattresses, and Decorations.
- **Permitting Nursing Homes to Utilize Certain Changes to Life Safety Code Provisions Immediately:** Since these changes are included in the 2012 Life Safety Code, CMS is permitting nursing homes to use the new provisions immediately.
- **Waiver Processing:** Waiver requests will be processed in accordance with standard operating procedures.

Recent changes to the NFPA, LSC 2012 edition allow:

- Previously restricted items to be placed in exit corridors;
- The recognition that a kitchen is not a hazardous area and can be open to an exit corridor under certain circumstances;
- Changes allowing the installation of direct-vent gas fireplaces and solid fuel burning fireplaces; and
- Changes to the requirements allowing the installation of combustible decorations.

A National task force developed these changes over three years subsequent to public comments at the CMS/Pioneer Network 2008 National Symposium on Culture Change and the Environment Requirements. These NFPA approved changes give nursing home providers additional ways to enhance resident autonomy and quality of life.

In support of these changes and the positive impact they may have on residents' lives, CMS will allow providers to implement these four changes by considering waivers of the current LSC requirements found in the 2000 edition of the LSC without showing "unreasonable hardship".

These changes include (1) increasing the amount of wall space that may be covered by combustible decorations; (2) permitting gas fireplaces in common areas; (3) permitting permanent seating groupings of furniture in corridors; (4) allowing kitchens, serving less than 30 residents, to be open to corridors as long as they are contained within smoke compartments. The waivers will be applicable to both new and existing health care occupancies. Specifically, CMS will consider a waiver to allow uses that meet the requirements found in the 2012 edition:

- LSC sections 18/19.2.3 Capacity of Means of Egress and more specifically the requirements at 18/19.2.3.4 which allow, under certain circumstances, projections into the means of egress corridor width for wheeled equipment and fixed furniture;
- LSC section 18/19.3.2.5 Cooking Facilities, more specifically the requirements at 18/19.3.2.5.2, 18/19.3.2.5.3, 18/19.3.2.5.4 and sections 18/19.3.2.5.5 which allow certain types of alternative type kitchen cooking arrangements;
- LSC section 18/19.5.2 Heating, Ventilating, and Air Conditioning more specifically the requirements at 18/19.5.2.3(2), (3) and (4) which allow the installation of direct vent gas fireplaces in smoke compartments containing patient sleeping rooms and the installation of solid fuel burning fireplaces in areas other than patient sleeping areas;
- And lastly, CMS will consider a waiver to allow the use of the requirements found at LSC section 18/19.7.5 Furnishings, Mattresses, and Decorations including sections 18/19.7.5.6 which allow the installation of combustible decorations on walls, doors and ceilings.

No changes were made to the Corridor Access provisions at 18/19.2.5.6.1 that requires “every habitable room shall have an exit access door leading directly to an exit access corridor, unless otherwise provided ...” Also, previous guidance concerning “not in use” criteria found in S&C-10-18-LSC is still applicable.

Due to the complex nature of some of the requirements, each waiver request will have to be evaluated separately in the interest of fire safety and to ensure that the facility has followed all LSC requirements and the equipment has been installed properly by the facility. All waiver requests will be processed in the regular fashion with input from the State Survey Agency and final approval by the CMS Regional Office.

No other requirements of the 2012 edition of the LSC are being implemented at this time. Further changes to the Fire Safety requirements will be done through the formal rule-making process.

Effective Date: The information contained in this memorandum is current policy and is in effect for all applicable healthcare facilities such as Hospitals and Nursing Homes. This clarification should be shared with all survey and certification staff, fire authorities, plan reviewers, surveyors, their managers and the State/Regional Office training coordinators within 30 days of the date of this memorandum.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management