



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

2000 vs. 2012 NFPA 101, Life Safety Code differences:

- 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;

NFPA 101, 2000 Edition:

18.2.3 Capacity of Means of Egress.

18.2.3.1 The capacity of any required means of egress shall be based on its width, as defined in Section 7.3.

18.2.3.2 The capacity of means of egress providing travel by means of stairs shall be 0.3 in. (0.8 cm) per person, and the capacity of means of egress providing horizontal travel (without stairs) by means such as doors, ramps, or horizontal exits shall be 0.2 in. (0.5 cm) per person.

18.2.3.3* Aisles, corridors, and ramps required for exit access in a hospital or nursing home shall be not less than 8 ft (2.4 m) in clear and unobstructed width. Where ramps are used as exits, see 18.2.2.6.

A.18.2.3.3 It is not the intent that the required corridor width be maintained clear and unobstructed at all times. Projections into the required width are permitted by the exception to 7.3.2. It is not the intent that 18.2.3.3 supersede 7.3.2. Also, it is recognized that wheeled items in use (such as food service carts, housekeeping carts, gurneys, beds, and similar items) and wheeled crash carts not in use (because they need to be immediately accessible during a clinical emergency) are encountered in health care occupancy corridors. The health care occupancy's fire plan and training program should address the relocation of these items during a fire. Note that "not in use" is not the same as "in storage." Storage is not permitted to be open to the corridor unless it meets one of the exceptions to 18.3.6.1 and is not a hazardous area.

NFPA 101, 2012 Edition:

18.2.3 Capacity of Means of Egress.

18.2.3.1 The capacity of means of egress shall be in accordance with Section 7.3.

18.2.3.4 Aisles, corridors, and ramps required for exit access in a hospital or nursing home shall be not less than 8 ft (2440 mm) in clear and unobstructed width, unless otherwise permitted by one of the following:

- 1) * Aisles, corridors and ramps in adjunct areas not intended for the housing, treatment, or use of inpatients shall be not less than 44 in. (1120 mm) in clear and unobstructed width.
- 2) * Noncontinuous projections not more than 6 in. (150 mm) from the corridor wall, positioned not less than 38 in. (965mm) above the floor, shall be permitted.
- 3) * Exit access within a room or suite of rooms complying with the requirements of 18.2.5 shall be permitted.
- 4) Projections into the required width shall be permitted for wheeled equipment, provided that all of the following are met:
 - (a) The wheeled equipment does not reduce the clear unobstructed corridor width to less than 60 in. (1525 mm).
 - (b) The health care occupancy fire safety plan and training program address the relocation of the wheeled equipment during a fire of similar emergency.
 - (c) * The wheeled equipment is limited to the following:
 - i. Equipment in use and carts in use
 - ii. Medical emergency equipment not in use

iii. Patient lift and transport equipment.

- 5) Where the corridor width is at least 8 ft (2440 mm), projections into the required width shall be permitted for fixed furniture, provided that all of the following conditions are met:
- (a) The fixed furniture is securely attached to the floor or to the wall.
 - (b) The fixed furniture does not reduce the clear unobstructed corridor width to less than 6 ft (1830 mm), except as permitted by 18.2.3.4 (2).
 - (c) The fixed furniture is located only on one side of the corridor.
 - (d) The fixed furniture is grouped such that each group does not exceed an area of 50 ft² (460 mm²).
 - (e) The fixed furniture groupings addressed in 18.2.3.4 (5)(d) are separated from each other by a distance of at least 10 ft (3050mm).
 - (f) (f)* The fixed furniture is located so as to not obstruct access to building services and fire protection equipment.
 - (g) Corridors throughout the smoke compartment are protected by an electrically supervised automatic smoke detection system in accordance with 18.3.4, or the fixed furniture spaces are arranged and located to allow direct supervision by the facility staff from a nurses' station or similar space.
- 6) * Cross-corridor door openings in corridors with a required width of 8 ft (2440 mm) shall have a clear width of not less than 6 ft 11 in. (2110 mm) for pairs of doors of a clear width of not less than 41 ½ in. (1055 mm) for a single door.

- 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.

NFPA 101, 2000 Edition:

18.7.5.4 Combustible decorations shall be prohibited in any health care occupancy unless they are flame-retardant.

Exception: Combustible decorations, such as photographs and paintings, in such limited quantities that a hazard of fire development or spread is not present.

NFPA 101, 2012 Edition:

18.7.5.6 Combustible decorations shall be prohibited in any health care occupancy, unless one of the following criteria are met:

- 1) They are flame-retardant or are treated with approved fire-retardant coating that is listed and labeled for application to the material to which it is applied.
- 2) The decorations meet the requirements of NFPA 701, Standard Methods of Fire Tests for Flame Propagation of Textiles and Films.
- 3) The decorations exhibit a heat release rate not exceeding 100kW when tested in accordance with NFPA 289, Standard Method of Fire Test for Individual Fuel Packages, using 20 kW ignition source.
- 4) *The decorations, such as photographs, paintings, and other art, are attached directly to the walls, ceilings, and non-fire-rated doors in accordance with the following:
 - (a) Decorations on non-fire-rated doors do not interfere with the operation or any required latching of the door and do not exceed the area limitations of 18.7.5.6 (b), (c), and (d).

- (b) Decorations do not exceed 20 percent of the wall, ceiling, and door area inside any room or space of a smoke compartment that is not protected throughout by an approved automatic sprinkler system in accordance with Section 9.7.
- (c) Decorations do not exceed 30 percent of the wall, ceiling, and door area inside any room or space of a smoke compartment that is protected throughout by an approved automatic sprinkler system in accordance with Section 9.7.
- (d) Decorations do not exceed 50 percent of the wall, ceiling, and door area inside patient sleeping rooms having a capacity not exceeding four persons; in a smoke compartment that is protected throughout by an approved, supervised automatic sprinkler system in accordance with Section 9.7.

- 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;

NFPA 101, 2000 Edition:

18.3.2.6 Cooking Facilities shall be protected in accordance with 9.2.3.

9.2.3 Commercial Cooking Equipment shall be in accordance with NFPA 96...

Exception*: Where domestic cooking equipment is used for food-warming or limited cooking, protection or segregation of food preparation facilities shall not be required.

A.18.3.2.6 Exception

This exception is intended to permit small appliances used for reheating, such as microwave ovens, hot plates, toasters, and nourishment centers to be exempt from the requirements for commercial cooking equipment.

NFPA 101, 2012 Edition:

18.3.2.5.3* Within a smoke compartment, where residential or commercial cooking equipment is used to prepare meals for 30 or fewer persons, one cooking facility shall be permitted to be open to the corridor, provided all of the following conditions are met:

- 1) The portion of the health care facility served by the cooking facility is limited to 30 beds and is separated from other portions of the health care facility by a smoke barrier constructed in accordance with 18.3.7.3, 18.3.7.6, and 18.3.7.8.
- 2) The cooktop or range is equipped with a range hood of a width at least equal to the width of the cooking surface, with the grease baffles or other grease-collecting and cleanout capacity.
- 3) *The hood systems have a minimum airflow of 500 cfm (14,000L/,in).
- 4) The hood systems that are not ducted to the exterior additionally have a charcoal filter to remove smoke and odor.
- 5) The cooktop or range complies with all of the following:
 - (a) The cooktop or range is protected with a fire suppression system listed in accordance with UL 300...
 - (b) A manual release of the extinguishment system is provided in accordance with NFPA 96...
 - (c) An interlock is provided to turn off all sources of fuel and electrical power to the cooktop or range when the suppression system is activated.
- 6) *The use of solid fuel for cooking is prohibited.
- 7) *Deep-fat frying is prohibited.
- 8) Portable fire extinguishers in accordance with NFPA 96 are located in all kitchen areas.

- 9) *A switch meeting all of the following is provided:
 - (a) A lock switch, or a switch located in a restricted location, is provided within the cooking facility that deactivated the cooktop or range.
 - (b) The switch is used to deactivate the cooktop or range whenever the kitchen is not under staff supervision.
 - (c) The switch is on a timer, not exceeding a 120-minute capacity, that automatically deactivates the cooktop or range, independent of staff action.
- 10) Procedures for the use, inspection, testing, and maintenance for the cooking equipment are in accordance with NFPA 96 and the manufacturer's instructions are followed.
- 11) *Not less than two AC-powered photoelectric smoke alarms, interconnected in accordance with 9.6.2.10.3 equipped with a silence feature, and in accordance with NFPA 72..., are located not closer than 20 ft (610mm) from the cooktop or range.
- 12) No smoke detector is located less than 20 ft. 610 mm) from the cooktop or range.

18.3.2.5.4 Within a smoke compartment, residential or commercial cooking equipment that is used to prepare meals for 30 or fewer persons shall be permitted, provided that the cooking facility complies with all of the following conditions:

- 1) The space containing the cooking equipment is not a sleeping room
- 2) The space containing the cooking equipment is separated from the corridor by partitions complying with 18.3.6.2 through 18.3.6.5
- 3) The requirements of 18.3.2.5.3 (1) through (10) are met.

18.3.2.5.5* Where cooking facilities are protected in accordance with 9.2.3, the presence of the cooking equipment shall not cause the room or space housing the equipment to be classified as a hazardous area with respect to the requirements of 18.3.2.1, and the room or space shall not be permitted to be open to the corridor.

- 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;

NFPA 101, 2000 Edition:

18.5.2.2* Any heating device other than a central heating plant shall be designed and installed so that combustible material will not be ignited by the device or its appurtenances. If fuel-fired, such heating devices shall be chimney connected or vent connected, shall take air for combustion directly from outside, and shall be designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area. Any heating device shall have safety features to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.

Exception No. 1: Approved, suspended unit heaters shall be permitted in locations other than means of egress and patient sleeping areas, provided that such heaters are located high enough to be out of the reach of persons using the area and are equipped with the safety features required by 18.5.2.2.

Exception No. 2: Fireplaces shall be permitted and used only in areas other than patient sleeping areas, provided that such areas are separated from patient sleeping spaces by construction having not less than a 1-hour fire resistance rating and that such fireplaces comply with the provisions of 9.2.2. In addition, the fireplace shall be equipped with a hearth that shall be raised not less than 4 in. (10.2 cm) and a fireplace enclosure guaranteed against breakage up to a temperature of 650°F (343°C) and constructed of heat-tempered glass or other approved material. If, in the opinion of the

authority having jurisdiction, special hazards are present, a lock on the enclosure and other safety precautions shall be permitted to be required.

A.18.5.2.2 For both new and existing buildings, it is the intent to permit the installation and use of fireplace stoves and room heaters utilizing solid fuel as defined in NFPA 211, Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, provided that all such devices are installed, maintained, and used in accordance with the appropriate provisions of that standard and all manufacturers' specifications. These requirements are not intended to permit freestanding solid fuel-burning appliances such as freestanding wood-burning stoves.

NFPA 101, 2012 Edition:

18.5.2.2* Any Heating device, other than a central heating plant, shall be designed and installed so that combustible material cannot be ignited by the device...

18.5.2.3 The requirements of 18.5.2.2 shall not apply where otherwise permitted by the following:

- 2) Direct vent gas fire places, as defined in NFPA 54... shall be permitted inside of smoke compartments containing patient sleeping areas, provided that all of the following criteria are met:
 - (a) All such devices shall be installed, maintained, and used in accordance with 9.2.2
 - (b) No such device shall be located inside a patient sleeping room.
 - (c) The smoke compartment in which the direct-vent gas fireplace is located shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1 with listed quick response or listed residential sprinklers.
 - (d) *The direct-vent fireplace shall include a sealed glass front with a wire mesh panel or screen.
 - (e) *The controls for the direct-vent gas fireplace shall be locked or located in a restricted location.
 - (f) Electrically supervised carbon monoxide detection in accordance with Section 9.8 shall be provided in the room where the fireplace is located.