



Center for Clinical Standards and Quality/Survey & Certification Group

Ref: S&C: 16-29-LSC

DATE: June 20, 2016

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Adoption of the 2012 edition of the National Fire Protection Association (NFPA) 101 - Life Safety Code (LSC) and 2012 edition of the NFPA 99 - Health Care Facilities Code (HCFC)

Memorandum Summary

- The Centers for Medicare & Medicaid Services (CMS) has adopted by regulation the 2012 LSC and the 2012 HCFC. The regulation effective date is July 5, 2016.
- CMS will begin surveying for compliance with the 2012 LSC and HCFC on November 1, 2016.
- CMS will offer an online transitional training course for existing LSC surveyors to provide an update on the new requirements. The course will be available on September 2, 2016 via the CMS Surveyor Training Website.
- CMS will update the ASPEN program (i.e., the information system which tracks surveys) and CMS Fire Safety Forms (2786) prior to the November 1, 2016 survey start date.

Background

The purpose of this policy memorandum is to notify the State Agencies (SA) and Regional Offices (RO) that CMS has adopted by regulation the NFPA 2012 LSC and 2012 HCFC. This memorandum supersedes S&C 03-21. In addition, this policy memorandum is intended to notify the SAs and ROs on the status of associated training, survey forms, and ASPEN program.

Regulation

On May 4, 2016, CMS adopted the 2012 LSC and the 2012 HCFC by final rule. The final rule was published in the Federal Register (Vol. 81, No. 86), is entitled "Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities", and is effective July 5, 2016. The final rule also adopted 2012 LSC Tentative Interim Amendments (TIA) 12-1, 12-2, 12-3, and 12-4, and 2012 HCFC TIA 12-2, 12-3, 12-4, 12-5 and 12-6.

The final rule eliminates all references to the previously adopted 2000 edition of the LSC, and requires providers and suppliers to comply with the 2012 LSC with certain modifications, and the 2012 HCFC excluding chapters 7, 8, 12, and 13 by the effective date of July 5, 2016.

Buildings constructed before July 5, 2016 can meet Existing Occupancy requirements. In addition, buildings that receive design approval or building permits for construction before July 5, 2016 can meet Existing Occupancy requirements. All other building construction must meet New Occupancy requirements.

The final rule includes requirements for Religious Non-Medical Health Care Institutions (RNHCI), Ambulatory Surgical Centers (ASC), Hospice, Program of All-Inclusive Care for the Elderly (PACE), Hospitals, Long Term Care, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID), and Critical Access Hospitals (CAH).

The final rules continues to allow CMS to waive, for periods deemed appropriate, specific provisions of the Life Safety Code, which would result in an unreasonable hardship upon a facility, providing the waiver will not adversely affect the health and safety of the patients.

The final rule also continues to allow the ability of a State to request that its State fire safety requirements, imposed by State law, be used in lieu of the 2012 edition of the LSC and HCFC with CMS.

Survey Process

CMS will begin surveying facilities for compliance with the 2012 edition of the LSC and HCFC on November 1, 2016. In addition, this will allow CMS the opportunity to train existing surveyors, revise fire safety survey forms, and update the ASPEN program.

Surveyors will continue to use the current process, tags and forms until November 1, 2016. In instances where the survey process identified deficiencies that would be compliant under the 2012 LSC, a facility may verify compliance with the 2012 LSC as an acceptable plan of correction and the deficiency would not be cited.

The LSC shortened survey process, outlined in the CMS Survey and Certification letter (<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-13-22.pdf>) will no longer be able to be used after October 31, 2016. CMS will analyze the data required to determine which facilities will be able to be surveyed using the shortened survey process. Any State that believes losing the shortened survey process for a period of time will cause it staffing and/or scheduling difficulty should contact their Regional Office immediately with their concerns. CMS will notify State Survey Agencies if the determination is made to use the LSC shortened survey process again.

Training: CMS will provide an online transition course for existing LSC surveyors. The transition course is intended to inform existing surveyors of the new regulatory requirements and instruct existing surveyors on how to apply the new Codes when surveying health care facilities.

The transition course will be self-paced and will take approximately 20 hours to complete. It will begin with a pre-test and conclude with a post-test that will require a passing score of 85 percent. All existing SA surveyors that conduct LSC surveys are required to complete the transition course and obtain a passing score before conducting LSC surveys using the 2012 LSC and HCFC.

The transition course will address: the requirements of the adopted regulation and associated policy and procedures; changes that have occurred in the Health Care Occupancies, Ambulatory Health Care Occupancies, Residential Board and Care Occupancies, and Building Rehabilitation chapters of the LSC; changes that have occurred in the NFPA 99; and the K-tags associated with new CMS-2786 forms.

This course will be available to all existing LSC surveyors on September 2, 2016 via the CMS Surveyor Training Website.

The reoccurring 2012 Basic Life Safety Code, NFPA 99, FSES/Health Care, and FSES/Residential Board and Care courses for new LSC surveyors will also be updated, and information regarding these courses will be provided when course development is complete. All previous prerequisites and requirements for new LSC surveyors to attend these reoccurring courses will continue.

ASPEN: The ASPEN program will be updated with new regulation sets that correlate with the 2012 LSC and HCFC requirements and associated K-tags. **The ASPEN system will be updated prior to the November 1, 2016 survey start date.**

If you have questions concerning this memorandum, please send them to SCG_LifeSafetyCode@cms.hhs.gov. To view the Final Rule, 05042016 Fire Safety Requirements Final Rule please see <https://www.federalregister.gov/articles/2016/05/04/2016-10043/medicare-and-medicaid-programs-fire-safety-requirements-for-certain-health-care-facilities>

Training: Immediately. The information provided in this memorandum should be communicated with all survey and certification staff, their managers, and the State/Regional Office training coordinators within 30 days of this memorandum.

Effective Date: CMS will begin to survey all health care facilities referenced in this final rule for compliance with the 2012 editions of the LSC and HCFC on November 1, 2016.

/s/
David R. Wright
Acting Director

cc: Survey and Certification Regional Office Management