

Center for Medicaid and State Operations/Survey and Certification Group

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Ref: S&C-04-33

**DATE:** May 13, 2004

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Life Safety Code (LSC) and State Performance Standards

**Letter Summary**

This letter reiterates the following existing policies related to LSC and combines them into one document for your convenience:

- Investigations of multiple death fires addressed in S&C-04-23 issued 3/11/2004;
- Definitions of terms used in the Life Safety Code addressed in S&C-04-15 issued 12/11/2003; and
- Investigation of complaints addressed in S&C-04-09 issued 11/13/2003.

This is a reminder to pay special attention to Standard 1, Emphasis A; Standard 4, Emphasis A; and Standard 7, Emphasis A with regard to LSC and evaluation of State Performance.

**Consideration of LSC Surveys in State Performance**

LSC surveys are required for initial and recertification of facilities subject to Survey and Certification inspections for Medicare/Medicaid certification. These include, but are not limited to Skilled Nursing Facilities (SNFs), Nursing Facilities (NFs) (whether freestanding, distinct parts, or dually certified), Intermediate Care Facilities for Mentally Retarded (ICFs/MR), Ambulatory Surgical Centers (ASCs), inpatient Hospice facilities, Program for All inclusive Care for the Elderly (PACE) facilities, Critical Access Hospitals (CAHs), Psychiatric and General Hospitals, and validation surveys of accredited facilities. As the LSC survey is considered a critical portion of the standard survey, the LSC survey should be considered when applying the State Performance Standards.

### **Survey Coordination and Data Entry**

While states have the flexibility to schedule health surveys and LSC surveys at different times, the input of LSC survey data of long term care facilities should take place not later than 60 days after the conclusion of the long term care health survey. See State Operations Manual (SOM) 7410 C. The maximum length of time between life safety code surveys of long term care facilities is not to exceed 15 months, as specified at 42 CFR 488.30.

### **Use of Waivers**

Waivers may be granted for specific requirements of the LSC if compliance with the prescriptive requirements would cause unreasonable hardship on the facility and there will be no adverse affect on resident health and safety by the granting of the waiver. In order to evaluate a waiver request, the state fire authority evaluates the degree of enforcement necessary to provide a reasonable measure of safety. Several factors are considered in the evaluation (see SOM 2480). Waivers are not to take the place of the correction of minor deficiencies such as maintenance of a sprinkler system or fire alarm system. For specific guidance on Continuing and Temporary waivers, please refer to SOM 7410 F.

### **Use of the Fire Safety Evaluation System (FSES)**

The FSES is an alternative method of determining compliance with the LSC. It may be used by a facility in place of correcting major deficiencies found by the facility survey. The FSES is to be submitted as part of the Plan of Correction by the facility to the State Survey Agency (SA). The SA reviews the FSES supplied by the facility. The SA then forwards the completed FSES and survey materials to the RO for review. Use of the FSES is not to take the place of correction of minor deficiencies and maintenance of life safety systems. For specific guidance on the use of the FSES, please refer to SOM 2478.

### **Standards for the Performance of Observational Surveys**

LSC issues are addressed in the State Performance Standards. This is a reminder to pay special attention to:

- Standard 1, Emphasis A – The SA begins no less than 10% of its standard surveys of nursing homes during weekends, holidays, or “off hours.” This does not apply to LSC surveys.
- Standard 4, Emphasis A – Immediate Jeopardy cases involving long term care and non long term care providers and suppliers are processed timely. This includes LSC surveys.
- Standard 7, Emphasis A – Certification kits for re-certified non-accredited hospitals and nursing homes are entered into the OSCAR/ASPEN Central Office system on a timely basis. This also includes LSC survey data.

At a later date, data sources and reports will be able to be generated for the LSC component of each of these Standards. Further information will be provided when these reports become available.

**Federal Monitoring Surveys**

Comparative Federal Monitoring Surveys are addressed at section 4157 of the SOM. Please note that these surveys are to include all applicable Conditions of Participation and Standards, including LSC.

For your further reference, regulatory requirements for LSC are addressed at the following regulatory cites:

- Hospitals - 42 CFR Part 482.41(b);
- SNFs and NFs - 42 CFR Part 483.70(a);
- ICF/MRs - 42 CFR Part 483.470(j);
- Inpatient Hospices - 42 CFR 418.100(d); and
- ASCs - 42 CFR Part 416.44(b).

**Effective Date:** Immediately.

**Training:** The information contained in this announcement should be shared with all survey and certification staff, their managers, the state/RO training coordinator, and all State Fire Authorities and staff.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management (G-5)