TO: NPA Members

FROM: Chris van Reenen
Vice President, Regulatory Affairs

DATE: May 4, 2016

RE: Final Rule Updating Medicare/Medicaid Fire Safety Standards for PACE

On May 4, 2016, CMS issued a final rule updating health care facilities’ fire protection guidelines. The rule amends fire safety standards for a number of Medicare and Medicaid participating facilities, including PACE facilities. The rule adopts the National Fire Protection Association’s (NFPA) 2012 edition of the Life Safety Code (LSC) in place of the earlier editions of the code, AND the NFPA’s 2012 edition of the Health Care Facilities Code (HCFC) with some exceptions.

The final rule published on May 4, 2016 modifies PACE requirements in 42 CFR Part 460. More specifically, §460.72(b) is modified, and §460.72(d) and §460.72(e) are added as follows, effective July 5, 2016 ($470.72(a) and §460.72(c) remain unchanged):

§460.72 Physical environment.

(a) * * *

(b) Fire safety—

(1) General rule. Except as otherwise provided in this section—

(i) A PACE center must meet the applicable provisions and must proceed in accordance with the Life Safety Code (NFPA 101 and Tentative Interim Amendments TIA 12-1, TIA 12-2, TIA 12-3, and TIA 12-4.)

(ii) Notwithstanding paragraph (b)(1)(i) of this section, corridor doors and doors to rooms containing flammable or combustible materials must be provided with positive latching hardware. Roller latches are prohibited on such doors.

(2) Exceptions.

(i) The Life Safety Code provisions do not apply in a State in which CMS determines that a fire and safety code imposed by State law adequately protects participants and staff.

(ii) In consideration of a recommendation by the State survey agency or Accrediting Organization or at the discretion of the Secretary, may waive, for periods deemed appropriate, specific provisions of the Life Safety Code, which would result in unreasonable hardship upon a PACE facility, but only if the waiver will not adversely affect the health and safety of the patients.
(3) A PACE center may install alcohol-based hand rub dispensers in its facility if the dispensers are installed in a manner that adequately protects against inappropriate access.

(4) When a sprinkler system is shut down for more than 10 hours in a 24-hour period, the PACE must:

   (i) Evacuate the building or portion of the building affected by the system outage until the system is back in service, or

   (ii) Establish a fire watch until the system is back in service.

(c) **

(d) Standard: Building Safety. Except as otherwise provided in this section, a PACE center must meet the applicable provisions and must proceed in accordance with the Health Care Facilities Code (NFPA 99 and Tentative Interim Amendments TIA 12-2, TIA 12-3, TIA 12-4, TIA 12-5 and TIA 12-6).

(1) Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to a PACE center.

(2) If application of the Health Care Facilities Code required under paragraph (d) of this section would result in unreasonable hardship for the PACE center, CMS may waive specific provisions of the Health Care Facilities Code, but only if the waiver does not adversely affect the health and safety of patients.

(e) The standards incorporated by reference in this section are approved for incorporation by reference by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect a copy at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. If any changes in this edition of the Code are incorporated by reference, CMS will publish a document in the Federal Register to announce the changes.


   (ii) TIA 12-2 to NFPA 99, issued August 11, 2011.

   (iii) TIA 12-3 to NFPA 99, issued August 9, 2012.

   (iv) TIA 12-4 to NFPA 99, issued March 7, 2013.

   (v) TIA 12-5 to NFPA 99, issued August 1, 2013.

   (vi) TIA 12-6 to NFPA 99, issued March 3, 2014.


   (viii) TIA 12-1 to NFPA 101, issued August 11, 2011.

(x) TIA 12-3 to NFPA 101, issued October 22, 2013.

(xi) TIA 12-4 to NFPA 101, issued October 22, 2013.

(2) [Reserved]

For the full text of the final rule as published in the Federal Register, including comments on the proposed rule and CMS’ responses, go to: https://www.gpo.gov/fdsys/pkg/FR-2016-05-04/pdf/2016-10043.pdf. Of particular note, referring to p. 26880, “PACE providers will continue to be required to meet LSC specifications for the type of facilities in which the programs are located (that is, hospitals and office buildings).” Referring to p. 26882, CMS responds to a question submitted in response to CMS’ request for comment on the proposed rule. The questioner asked whether an alternative care setting used to provide services to PACE participants would be required to meet the ABHR (Alcohol Based Hand Rubs) requirement and the sprinkler system outage requirements. CMS clarifies that, “All PACE center facilities are required to meet the requirements found at 42 CFR 460.72, “Physical Environment”. This includes meeting all the requirements for the specific occupancy type they fall under within the LSC. This requirement also applies to the type of setting in which a center is located, which would include alternative care settings.”


If you have any questions, please contact me at (703) 535-1568 or chrisvr@npaonline.org. Thank you.