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


The final rule published on May 4 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 proceed in accordance with the LSC (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 LSC 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 LSC, 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 center 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 HCFC (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 HCFC do not apply to a PACE center.

(2) If application of the HCFC required under paragraph (d) of this section would result in unreasonable hardship for the PACE center, CMS may waive specific provisions of the HCFC, 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 Blvd., Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this material, go to the NARA website. 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.

(1) National Fire Protection Association, 1 Battymarch Park, Quincy, MA 02169, 617-770-3000


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

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

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

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

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


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


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

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

(2) [Reserved]

The full text of the final rule, including comments on the proposed rule and CMS’ responses, is published in the Federal Register. 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.”

Copies of the LSC and HCFC can be obtained from the National Fire Protection Association, 1 Battymarch Park, Quincy, MA 02169, 617-770-3000.

For more information, contact Chris van Reenen, vice president of Regulatory Affairs at NPA.