Have You Accepted the CMS Life Safety Code Waivers?

Florida Healthcare Engineering Association
30th Spring Meeting
May 9, 2014

Wayne Klingelsmith, CHFM, FASHE
Overview

- Who is CMS and what is a CMS Waiver?
  - Traditional Waiver vs. Categorical Waiver

- Why do we need Waivers?
  - Relative Humidity – April 19, 2013

- Does AHCA recognize Categorical Waivers?

- How do we accept the Categorical Waivers?

- When accepted, then what?
  - eSOC
  - Advise surveyor when they arrive on-site
  - Monitoring and documentation
  - Policy and procedure

- Questions
Who is CMS?

- Center for Medicare & Medicaid Services, previously known as HCFA (Healthcare Financing Administration)
  - Social Security Amendment July 30, 1965 signed by President L.B. Johnson established Medicare & Medicaid programs
  - Medicare Modernization Act Dec. 8, 2003 signed by G.W. Bush added outpatient drug benefits & other important changes
- CMS is Agency within US Department of Health and Human Services (DHHS)
What does CMS do?

- Develops Conditions of Participation (CoPs) that health care organizations must meet in order to participate in the Medicare and Medicaid programs.

- Ensures that the standards of accrediting organizations recognized by CMS (like The Joint Commission) meet or exceed the Medicare standards set forth in the CoPs.

- Validation surveys using State agencies.
Medicare/Medicaid represents largest payer for hospitals—roughly 54%*

*Based on FY 2010 medians; numbers do not necessarily sum to 100% because each payer is a separate median calculation. 
Source: Moody’s
What is a CMS Waiver?

- §1819(d)(2)(B)(I) “The secretary may waive, for such periods as he deems appropriate, specific provisions of the Code, which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of the residents or personnel…”

- Waivers can only be requested for a deficiency that has been cited during a State Agency survey. (exception – categorical waivers)
Traditional vs. Categorical Waiver

- Traditional Waiver – must apply to CMS for waiver of a specific CoP requirement after being cited for a deficiency
  - Must show “unreasonable hardship”
  - Must document that waiver will not adversely affect health and safety...
  - Must have Regional Office approval
  - Typically must be renewed periodically

- Categorical Waiver – must formally accept one or more of the waivers offered by CMS and document election decision, but we are not required to submit to CMS for approval
Why do we need Categorical Waivers?

Life Safety Code

“The Centers for Medicare & Medicaid Services (CMS) has identified several areas of the 2000 edition of the LSC and 1999 edition of NFPA 99 that may result in unreasonable hardship on a large number of certified providers for which there are alternative approaches that provide an equal level of protection.”
Life Safety Code Waiver

- March 9, 2012 (S&C-12-21-LSC)
- Changes in NFPA 101–2012 edition allow:
  1. Previously restricted items can be placed in exit corridors (permanent seating groupings, wheeled lift & patient movement equipment)
     FIRE PLAN MUST ADDRESS RELOCATION OF WHEELED EQUIPMENT DURING FIRE
  2. Recognition that a kitchen is not a hazardous area and can be open to an exit corridor under certain circumstances
  3. Installation of direct-vent gas fireplaces and solid fuel burning fireplaces
  4. Changes to the requirements allowing the installation of combustible decorations.
Exit corridors – 18/19.2.3.4 allows wheeled “patient lift and transport equipment” if unobstructed corridor width not less than 60” and fixed furniture which does not reduce 8’ corridor to less than 6’, on 1 side of corridor; also, groupings not exceeding 50 sq. ft. and separated from each other by at least 10’; does not obstruct access to building service or fire protection equipment; and smoke compartment fully sprinkled and corridor supervised or protected by smoke detection.

Kitchen – 18/19.3.2.5.3 Cooking equipment used to prepare meals for 30 or fewer persons; 1 cooking facility in a smoke compartment may be open to the corridor if all of the following are met (13 items, including):

- Equipped with hood with minimum 500 CFM airflow
- Charcoal filter if not ducted to exterior
- Protected with fire suppression system
- Deep fat frying is prohibited
- Portable fire extinguisher located in kitchen area
- No smoke detector less than 20’ from cooktop
Fireplaces per 18/19.5.2.3(2) allows direct vent gas fireplace inside patient sleeping smoke compartments, provided
- No such device inside a patient sleeping room
- Fireplace includes a sealed glass front with wire mesh panel or screen
- Supervised CO detection in room with fireplace

Fireplaces per 18/19.5.2.3(3) allows solid fuel burning fireplaces
- in areas separated with 1-hour construction from patient sleeping compartments
- Heat tempered glass front and CO detection

- Combustible decorations 18/19.7.5.6 (4) allows photographs, paintings and other art attached directly to walls, ceiling and non-fire rated doors (which do not interfere with door operation):
  - NTE 20% in any room or space in non-sprinkled area
  - NTE 30% in any room or space protected by sprinklers
  - NTE 50% inside patient sleeping rooms having a capacity of 4 or less, when smoke compartment is protected throughout by fire sprinklers
Nursing homes permitted to use the new provisions immediately.
“These NFPA approved changes enhance nursing home resident autonomy and quality of life”

Other providers must submit waiver requests “in accordance with standard operation procedures, without showing unreasonable hardship”
Why do we need Categorical Waivers?

Relative Humidity

- Current CMS regulations require hospitals to maintain 35% to 60% relative humidity in anesthetizing locations
- The Joint Commission began allowing organizations to maintain relative humidity 20% to 60% in January 2011
- So… 20% RH is OK by TJC but without waiver, cited by CMS
Relative Humidity Categorical Waiver

- April 19, 2013 (S&C:13–25–LSC)

- CMS issues a categorical waiver permitting new and existing ventilation systems to operate with an RH of less than or equal to 20%, instead of less than or equal to 35%. “We also recommend that RH not exceed 60% in these locations.”
Relative Humidity Categorical Waiver

- This waiver does not apply when more stringent RH control levels are required by State or local law or where reduction in RH would negatively affect ventilation system performance.
- Individual waiver applications are NOT required, but facilities are expected to have written documentation that they have elected to use this waiver.
Effective 1/1/2011 the Joint Commission will recognize the Facilities Guidelines Institute (FGI) *Guidelines for Design & Construction of Health Care Facilities*

*ASHRAE 170* has been attached to the Guidelines
- Ventilation Table
- 20 – 60 % RH requirement of relative humidity in seven affected areas of the Surgical Environment, and one in Diagnostic & Treatment.

**NOTE** CMS has not adopted this, but remains at 35 – 60%RH
- The established 60% upper range however should be maintained for issues such as mold growth.
RH% Treatment Areas

- Class A Operating/Procedure room
- Class B and C operating rooms
- Operating/surgical cystoscopic rooms
- Delivery room (Caesarean)
- Treatment rooms
- Trauma room (crisis or shock)
- Laser eye room
- Diagnostic & Treatment: Gastrointestinal Endoscopy Procedure Room
Life Safety Code Categorical Waivers

- August 30, 2013 (S&C:13–58–LSC)
- CMS has determined that the 2000 edition of the LSC contains provisions that may result in unreasonable hardship...
- Individual waiver applications are NOT required, but facilities are expected to have written documentation that they have elected to use this waiver.
1. Medical gas master alarms – allows a Building Automation System to be 1 of the 2 required master alarms

2. Openings in exit enclosures – allows unoccupied mechanical & electrical spaces to open into an exit enclosure without a vestibule

3. Emergency Generators – allows load bank testing to be 1.5 hours rather than 2 hours, per NFPA 110–2010
4. Doors – Special locking arrangements for security (as well as clinical) need and more than one Delayed Egress lock in a path of egress

5. Suites – one of 2 required exits may be through another suite, when the other opens to an exit corridor, exit stair, exit passageway or door to the exterior and size increase

6. Extinguishment – quarterly water-flow testing can move to semi-annual and weekly fire pump churn test can move to monthly
LSC Categorical Waivers – August 30, 2013

7. Clean Waste/Patient Record Recycling – containers now limited to 32-gallons may increase to 96 gallons if labeled as FM 6921

This S&C letter adds LSC Waivers in CMS S&C–12–21–LSC dated March 9, 2012:

8. Allows specific items in exit corridors
9. Allows kitchen open to an exit corridor
10. Fireplaces
11. Combustible decorations % allowed
Mr. Klingelsmith,

I thank you for your interest and willingness to insure the Health Care Industry is informed correctly with this process. As long as a facility complies with [S&C Letter 13-58-LSC dated August 30, 2013](mailto:manuel.lopez@ahca.myflorida.com) AHCA will except the waiver. The surveyor will investigate and insure that the facility is in compliance with the waiver process. Remember that the waiver documentation must be presented at the entrance interview. If you would like more information please fell to e-mail or call me, my number is 850-412-4520.

Best Regards

Eddie Alday, Government Analyst II
HQA, Field Operations, Life Safety Lead
How do we accept the Categorical Waivers?

- The categorical waivers allow organizations to immediately implement the provision without formal approval.
- The organization must document their decision to apply the categorical waiver and also notate the locations for which the waiver applies, i.e.:
  - Location of unoccupied rooms that open to exit stair
  - Doors that are locked for security need or have more than 1 DE in the path of egress
  - Suites – either sleeping suites over 5000 sq. ft. or with 1 of 2 required exits through another suite
  - Recycling containers (>32 gal. or adj. to waste can)
Document waiver locations for TJC

- Openings to unoccupied spaces in exit stairwells (accept for the following locations)
  - 9th floor South Tower (elevator penthouse)
  - 8th floor South Tower (mechanical room)
  - 7th floor North Tower (mechanical room)
  - 1st floor OR North Expansion (mechanical room)

- Suites – size of sleeping suite up to 10,000 sq. ft. or 1 of 2 required exits through another suite (accept)
  - 1st floor ED suites (1 exit through another suite)
  - 3rd floor Nursery suite in smoke compartment 3.5 (ditto)
  - 3rd floor North Tower suite (smoke compartment 3.9) (ditto)
  - 4th floor combination of suite S3 and TICU (over 5000 sq. ft.)
  - 5th suite S1 (5266 square feet)
CMS Life Safety Code Waiver Acceptance

On August 30, 2013 the Centers for Medicare & Medicaid Services (CMS) identified several areas of the 2000 edition of the Life Safety Code (LSC) and 1999 edition of NFPA 99 that may result in unreasonable hardship on a large number of certified providers/suppliers and for which there are alternative approaches (based on the 2012 edition of the LSC) that provides an equal level of protection. The waiver specifies the provisions that are available from the 2012 edition of the LSC and the conditions for the alternative approaches.

Individual waiver applications are not required to be submitted to CMS, but providers and suppliers are expected to have written documentation that they have elected to use a waiver and must notify the survey team at the entrance conference for any survey assessing Life Safety Code compliance that it has elected the use of a waiver permitted under this guidance and that it meets the applicable waiver requirements.

A summary of the waivers offered and acceptance recommendations are as follows:

<table>
<thead>
<tr>
<th>Relative Humidity Waiver for RH range of 20% to 60% - Anesthetizing Locations</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
</tr>
</tbody>
</table>

**Life Safety Code Waivers:**

1. Medical gas alarms – using BAS for one of the 2 required alarms
2. Openings to unoccupied spaces in exit stairwells
3. Generator annual load bank testing reduced from 2-hours to 1.5 hours
4. Special door locking for both clinical and SAFETY needs of patients
5. Suites – size of sleeping suite up to 10,000 sq. ft. and one suite can have 1 of 2 required exits through another suite
6. Fire Sprinkler system – semi-annual flow switch testing (now quarterly) and monthly (now weekly) fire pump churn tests
7. Recycling Containers (for “clean” recycling) can be a maximum of 96 (now 32) gallons in unprotected area
8. Items in corridors – allows patient lift equipment, patient transport equipment and fixed seating
9. Kitchen open to corridor – typically long term care or Psych units
10. Gas Fireplaces in common areas
11. Combustible decorations – can be 30% (now 20%) of wall area

Accepted by: ________________________________          Date __________
(Healthcare organization)
Once accepted, then what?

- **eSOC** – Annotate acceptance of the CMS waivers in the “Basic Building Information” section of the eSOC
  
  Use “Additional Comments” field on the last page of the eSOC. Also, be prepared to show minutes of the EOC/Safety Committee meeting when the waivers were approved.

- During the survey, the Life Safety Code surveyor will field verify that all CMS waiver conditions are met.
Once accepted, then what?

- For an organization to apply the categorical waiver, they must **fully comply** with the requirements cited.

- For example:
  - For a mechanical space open to an exit enclosure, that mechanical space must be in a fully sprinkled building, have a properly rated fire door assembly, not have combustibles stored in the room and have no fuel-fired equipment in the room.
Once accepted, then what?

- Advise surveyor when they arrive on-site
- At entrance conference for Life Safety survey, must notify surveyor of election to use categorical waiver.
- It is NOT ACCEPTABLE to notify the surveyor of election to use categorical waiver after a Life Safety citation has been identified. The organization will be cited.
Facilities must monitor Relative Humidity levels in anesthetizing locations and be able to provide evidence that the RH levels are maintained at or above 20%.

In addition, facilities must provide evidence of timely corrective actions in instances when RH levels are outside the permitted range.
Who maintains documentation?

- In–room monitoring, documented by Operating Room staff?
  - OR staff records temperature and RH
  - OR staff documents call to Engineering when out of range

- Building Automation System
  - Alarm parameters set to automatically notify WHO?
  - Who alerts OR staff to “out of range” condition?
  - Who documents follow–up action to resolve issue?
So what do we do if RH is 19%?

Temperature and RH is monitored in the room. You are responsible for the OR. What do you do?

- A. Finish the procedure and place a hold on the room.
- B. Stop the procedure when safe to do so and do not start another case.
- C. Finish the procedure, continue to monitor relative humidity, go on to the next case.
- D. Continue with the schedule until all cases are completed for the day.
So what do we do if RH is 19%?

Temperature and RH is monitored by the building automation system. As Facility Director, you get an alarm. What do you do?

- A. Contact the OR and advise the room is out of parameter. Let them decide what to do.
- B. Contact the OR and tell them to stop the procedure and not start another case.
- C. Ignore the alarm, since it is only out of range by 1% RH.
- D. Contact the OR and advise the room will be out of service when the case is complete.
Policy & Procedure

PURPOSE: To define and manage temperature and humidity in operating rooms and other anesthetizing locations. Proper management of these factors is important for prevention of postoperative infections and provision of a comfortable work environment for staff.

POLICY:
A. The temperature of the operating room is designed according to the requirements of the AIA/FGI Guidelines, which would allow it to be maintained between 68 degrees Fahrenheit and 75 degrees Fahrenheit (20C – 24C). It is acceptable for the temperature to occasionally be lower than the 68–degree range, provided the relative humidity remains below 60%.

Temperature adjustment should take into consideration the following:
1. Type of surgery, i.e. abdominal surgery with extra cooling needs vs. less invasive procedure
2. Individual patient characteristics, for example a child vs. an adult
3. Need to maintain the patient in a normothermic range
4. Preferences of the surgeon.

MSL HEALTHCARE CONSULTING, INC.
Policy & Procedure, continued

B. A relative humidity level of 20% – 60% is the target range, as recommended by The Joint Commission and per the categorical waiver issued by CMS on April 19, 2013. It is acceptable for the relative humidity to occasionally move either above or below the recommended range for short periods of time.

PROCEDURE: Correction of room temperature and humidity levels out of recommended ranges.

A. Any temperature out of range is initially addressed by adjusting the room thermostat (allow 30 minutes for temperature to stabilize).

B. Any humidity level below 20%, Engineering notified to verify systems are working properly. Lower RH levels not associated with clinical concerns.

C. Any humidity exceeding 60%, Engineering will be notified to verify systems are working properly. No other follow-up within 24-hrs.

D. At humidity exceeding 70%, operating room staff will be notified for consideration of case delay or rescheduling. OR staff will monitor for moisture on walls or equipment and the presence or absence of moisture will be communicated as a factor in decision-making.
Policy & Procedure, continued

- Develop policy in coordination with representatives of:
  - Infection Control
  - Surgery
  - C-Section rooms
  - Cath Lab
  - Engineering
  - Others
- Approval by EOC/Safety Committee
Questions?

Wayne Klingelsmith
(888) 951-1114
wklingelsmith@mslhealthcare.com

MSL Healthcare Consulting, Inc.
www.mslhealthcare.com